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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fourteenth session

SUMMARY RECORD OF THE 10th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 6 May 1996, at 3 p.m.

Chairperson: Mr. ALSTON

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The meeting was called to order at 3.20 p.m.

STATEMENT BY A NON-GOVERNMENTAL ORGANIZATION

1. Ms. BONNER (International Baccalaureate Organization) said that her organization had been in existence for 30 years and its curriculum was taught in some 600 schools around the world. One of the essential pillars of that curriculum was the teaching of human rights.
2. Human rights education in the International Baccalaureate aimed to educate young people to act intelligently and responsibly in a complex global society. At the same time, it sought to ensure knowledge of academic disciplines and of the student's own heritage, while fostering intellectual curiosity and openness to new ideas. Its objectives included: learning how to learn, relating to one's national identity and understanding the traditions of others, making wise choices, resolving conflicts peacefully, promoting international understanding, tolerance and respect for others, reflecting critically and reaching considered conclusions, and becoming responsible citizens in the community through social service, which was a requirement for the award of the diploma. The organization believed that the International Baccalaureate should help students to become active participants in the world and thus promote peace, human rights and democracy. Students should understand that the world was interdependent. They should, moreover, be aware that there was no single correct way but many equally valid ways of living.

ORGANIZATION OF WORK (continued)

3. The CHAIRPERSON invited the Committee to consider the list of reports pending consideration at its fifteenth session. He recalled that five reports had been scheduled for consideration at the current session but the Dominican Republic had withdrawn - too late for another country to be notified. The workload for the current session was therefore very light. At the same time, reports were mounting up, and he proposed that at its next session the Committee should deal with at least five, and a maximum of six, reports.
4. Mr. GRISSA said that, since the report on Macao would be very brief, the Committee could perhaps add the initial reports of Libya and Guyana to the list for the next session.
5. Mr. ALVAREZ VITA endorsed that suggestion and expressed concern that, compared with other treaty bodies, the Committee seemed to get through rather few reports each year. He agreed that the matters dealt with were more complex than in the case of some of the other Committees, but believed that more time should be devoted to studying reports and perhaps less to the organization of work.
6. The CHAIRPERSON observed that the Committee took about the same amount of time to consider a State party report as the Human Rights Committee and the Committee on the Rights of the Child. That was not to say that the Committee could not handle a greater number of reports each session.

7. Mr. CEAUSU considered that the optimum number of reports per session was five; however, given that reporting countries sometimes failed to appear, it might be advisable as a precaution to list six reports for consideration and keep one in reserve in case of a withdrawal. As a matter of principle, the six reports listed for consideration should include two initial reports; the list for the next session in fact included two second reports and three third reports. In his view, it was very important that some priority should be given to initial reports. A number of States were supposed to have submitted an initial report some 10 or 20 years before. Letters should be sent to those States urging them to comply, and at least one initial report should be placed on the Committee's agenda at each session.

8. He pointed out that the Committee was discussing substantive matters under the heading "Organization of work". He accordingly suggested that there should be an additional agenda item entitled "Other matters concerning the Committee's work".

9. Mr. SIMMA suggested that instead of placing a country on a waiting list, with the possibility that it might make preparations to appear and then have to cancel the arrangements made, the Committee should put five reports on its agenda and a further two countries which had never reported. Then, if a country happened to drop out, the country which had never reported would be taken up automatically. That would mean that a member of the Committee would need to take responsibility for the non-reporting country.

10. The CHAIRPERSON said that a list of issues would have to be prepared for the country which had been put in reserve. Then if one of the first five dropped out after giving the necessary three months' notice, the list of issues could be sent to the sixth Government.

11. Mr. GRISSA said that, judging by current procedure, the Committee could deal with six reports in nine and a half working days, which would leave ample time for other business. He asked whether the report on Hong Kong, to be considered at the next session, was expected to be as brief as that on Macao. If it was, both Libya and Guyana could be added to the list of reports to be considered.

12. The CHAIRPERSON said that with the addition of the discussion of preliminary observations and the adoption of concluding observations on each report, in practice a minimum of two days was needed for each country. Regarding the report on Hong Kong, he noted that the Government of the United Kingdom had gone to great lengths to submit a third report and was clearly hoping that the Committee would give it very full consideration. It had invited two members of the Committee to go to Hong Kong in advance of the session.

13. Summing up, he said there was clearly a consensus that the Committee should not again find itself in the position at the current session and that an effort should be made to increase the number of reports processed. It was therefore necessary to have a mechanism to provide an alternative if a State withdrew in good time. Thus, either a reporting State or a non-reporting State could be put on a waiting list. There seemed to be no objection to the proposal that the Committee should automatically take up one non-reporting

State at each session. The secretariat could perhaps arrange to insert a non-reporting State in the list after each five or six reporting States, in the appropriate chronological order. It was probably safe to assume that, in future, the list for each session would include two initial reports. He suggested that the schedule for the next session should include seven reports, the five already indicated, with the addition of Libya followed by the next non-reporting State on the list. Because of the brevity of the report on Macao it should be possible to discuss seven reports at the next session, but if necessary the Committee would be able to postpone the non-reporting State.

14. Mr. GRISSA pointed out that it would be necessary to appoint a member of the Committee to study the situation in the non-reporting State and make proposals.

15. The CHAIRPERSON said that a rapporteur had already been identified and a detailed dossier was already available.

16. Mr. CEAUSU asked which States parties were to be considered by the pre-sessional Working Group.

17. Mr. TIKHONOV (Secretary of the Committee) said that the pre-sessional Working Group was scheduled to consider Finland, Hong Kong, Libya, Guyana and Zimbabwe.

18. The CHAIRPERSON said he would take it there was agreement that the Committee should consider the reports of seven countries at its next session and that thereafter, it should take up six countries at each session, five regularly reporting countries and one non-reporting country.

19. It was so decided.

20. Mr. SIMMA requested that discussion of the report on Guinea should be postponed until the following week. The necessary information had not been in the file when required and he needed time to thoroughly acquaint himself with all relevant material.

21. Mr. CEAUSU suggested that with a view to avoiding such problems in the future, the Secretary could distribute 10 or 12 of the non-reporting countries between members of the Committee, who would write their own reports using private research and information received from non-governmental organizations (NGOs) and specialized agencies.

22. The CHAIRPERSON supported the idea but suggested that members should restrict themselves to five such countries, otherwise the reports would accumulate and might be out of date when finally brought before the Committee.

23. It was so agreed.

24. Ms. HODGES (International Labour Organization) asked for clarification of the expected contribution of specialized agencies and pointed out that appreciable efforts were involved in preparing the relevant reports.

25. The CHAIRPERSON assured her that specialized agencies would not be put under undue pressure.
26. Mr. TEXIER suggested that international NGOs might identify national NGOs which could serve as valuable sources of information for the Committee.
27. After a discussion on organization of work in which Mr. GRISSA, the CHAIRPERSON, Mr. AHMED and Mr. SIMMA took part, Mr. CEAUSU raised the issue of how the Committee should respond to letters and appeals received between sessions and asked the representative of the Centre for Human Rights to explain the approach adopted by other treaty bodies.
28. The CHAIRPERSON pointed out that the other treaty bodies did not permit oral interventions by NGOs in plenary meeting, although there was a growing tendency to welcome the informal participation of NGOs in the supply of information. It was the Committee on Economic, Social and Cultural Rights which had initiated the dialogue with NGOs.
29. Ms. KLEIN (Centre for Human Rights) said that the Committee on the Rights of the Child, for example, provided an opportunity for interchange with national NGOs within the framework of its Working Group. Other bodies, while not allowing NGOs to intervene orally either in its plenary meetings or in working groups, had developed a system of briefing immediately prior to the commencement of sessions.
30. The CHAIRPERSON reminded the Committee that at the beginning of the session it had received various requests for action from NGOs, including NGOs in Palestine with regard to Israel. The information had been forwarded to the Governments concerned for possible consideration and inclusion in their next reports. In some cases, Governments had promised to submit reports on the matter raised.
31. Obviously, the Committee could not ignore issues related to breaches of the Covenant simply because a particular country's report did not happen to be scheduled for consideration. While it was the Committee's duty to monitor Governments' compliance with their obligations, the Committee did not possess sufficient resources to deal with each and every violation highlighted by NGOs. A flexible compromise must be achieved. Speaking in a personal capacity, he said that, except in extraordinary circumstances, the Committee should not go beyond sending polite letters to the Governments concerned. It could not insist upon an immediate response. Since the range of possible violations of economic, social and cultural rights was so immense, it was difficult to establish criteria for determining whether one particular violation was more pressing than another. How could the relative importance of hunger in one country be compared with failure to respect basic labour rights in another?
32. Mr. SIMMA said that what was involved was not merely a choice between forwarding the information to another body or insisting that the Government concerned respond immediately. A middle path must be found. The Government could be told by letter that any violation was of great concern to the Committee and that a clarification of the matter would be welcome. The issue could not be ignored simply because the country did not happen to be on the

Committee's current list. Individual members continued to take an active interest in what was happening in those countries it had considered; the Committee could thus be said to have accumulated an "institutional memory". It should convey the idea that once a particular country's report had been considered, that was not the end of the matter. Such an approach would be more constructive than simply forwarding information received for other bodies to address.

33. Mr. RATTRAY said that the basic function of the Committee was being questioned. As a watchdog monitoring the performance of States in the field of economic, social and cultural rights, the Committee had a duty to respond appropriately to information received. The nature of that information could not be predetermined, nor could the Committee's response. In some cases, the Committee might be obliged to supply quasi-injunctive relief, or call upon a State to verify the information forwarded and give an immediate response while the Committee was in session. The Committee would have to take responsibility for making a preliminary judgement as to the reliability of the information received from NGOs. It must not assume an apologetic role, nor must it seek to evade from its responsibilities. The Committee would instinctively know when rights were being breached in a barbaric manner. In some instances, it would need to emphasize to the Government concerned that, if correct, the information received was disturbing since it pointed to a fundamental breach of the Covenant.

34. Mr. CEAUSU, concurring with the Chairperson, suggested further that any information received should be conveyed by the Chairperson, for action or for information, also to others competent to deal with it within the United Nations system, such as the United Nations High Commissioner for Human Rights, the Chairman of the Human Rights Committee, the Communications Branch of the Centre for Human Rights or a specialized agency. The Committee would not be shirking its responsibility but would simply be following proper procedure within the common system. All avenues must be used to verify allegations and help victims of violations.

35. The CHAIRPERSON said that his concern was that, even by letting it be known that it would forward serious complaints to other competent bodies through the "1503 procedure", the Committee would be opening the floodgates to communications from NGOs and would be coming close to establishing its own communications procedure.

36. Ms. HODGES (International Labour Organization), recalling that the receipt of communications was an established function in its Constitution, said that in the experience of ILO the volume of communications - 159 of them, for instance, in the last year alone - could indeed be heavy, often with persistent follow-up inquiries, requiring a very organized person in its secretariat to work on them full time. Allegations were immediately conveyed to States parties with a request for a reply, with which they generally complied, and those whose reports to ILO were due at the forthcoming session had the option of dealing with them then. ILO had a second system known as intervention by the Director-General, allowing him to write to non-party States for comment in the case of major violations and additionally to convey an expression of concern where the violation was flagrant. That procedure, however, did not automatically result in a quick answer.

37. Mr. GRISSA said that the ILO experience was not germane to the Committee because ILO was answerable to States parties, the labour movement and employers' organizations, whereas the Committee had a direct relationship only with States parties and was not beholden to NGOs. The Committee should be free to receive information and take it into consideration, but was under no obligation to act upon it.

38. Mr. SIMMA, agreeing that the Committee had full freedom as to its response to communications, observed that the usefulness of its work had none the less depended to a large extent of late on the information it gleaned from them. It would be a matter of common sense for any NGO active in the economic, social or cultural fields to ascertain whether the Committee could assist it, if only by conveying information in a quasi-official way to Governments, with a covering letter asking for an explanation in neutral terms. Considering the trickle of such communications the Committee had received thus far, it should not be an overwhelming task to deal with them by appointing one member as specific rapporteur in each instance.

39. Mrs. JIMENEZ BUTRAGUEÑO considered that the receipt of information from NGOs was of great service in the Committee's monitoring of States parties, and was especially important when the information involved States which were not parties to the Covenant. Taking into account the significance and, of course, reliability of any information received, the Committee should always answer such communications, for to do otherwise would be an affront to the organization in question. The timing of the communication should also be a factor; States parties due to submit reports shortly could be allowed to defer their replies until then. Perhaps the Committee could set up a working group of five - modelled on Working Group II of the Committee on the Elimination of Discrimination against Women, which dealt with discrete matters of detail - to handle communications, with each member contributing his or her useful familiarity with different countries.

40. Mr. TEXIER said that, not being an organization like ILO with a tripartite role, the Committee could not adopt the same procedures and must continue to focus on its exclusive relations with States. Like Mr. Simma, he did not think the Committee was likely to be inundated by a flood of communications from NGOs; communications should be answered on a case-by-case basis. Probably only allegations of relatively massive violations, as in Argentina and Israel, should prompt direct action by the Committee. Argentina's reply could be a follow-up to its recent report, whereas Israel could simply be sent a request for an explanation. The Committee should react appropriately and flexibly, in the light of a State party's willingness to respond. The Committee's concomitant dialogue with NGOs could only strengthen its activities and its experience over time with communications could become an argument for the adoption of an optional protocol.

41. Mr. AHMED said he believed there was a consensus on the middle-of-the-road approach being generally advocated, and proposed that Mr. Simma, Mr. Rattray and Mr. Texier should be asked to draft a letter for transmission to Israel in the low-key, objective tone they had advised.

Apparently Mr. Alvarez Vita was in the process of drafting two letters to Argentina. The drafts could be circulated to the Committee, which could then decide how to proceed.

42. It was so decided.

43. Mr. GRISSA said that he would be loath to set a precedent, especially in a case like that of Israel, where the Government was aware of the complaints being transmitted to the Committee and had deliberately done nothing to impede them. The Committee could not take orders from NGOs.

44. The CHAIRPERSON said that when an NGO criticized a Government, it was appropriate to notify that Government. The conveying of allegations did not impinge upon the Committee's primary role, and a Government was more likely to respond if the allegation were transmitted via the Committee rather than made directly by an organization or individual. After reviewing the draft letters, the Committee would be in a better position to judge the appropriateness of such an approach, which bore on its future work.

45. The Committee should also consider whether it would be productive to suggest to the Commission on Human Rights that its institutional arrangements for dealing with complaints concerning economic, social and cultural rights lagged behind those in place for receiving information on violations of other rights. It should also consider whether to propose that the Commission appoint a special rapporteur for economic, social and cultural rights, given the fact that virtually all its special rapporteurs dealt with civil and political rights.

46. Turning to the draft general comment on forced evictions, relating to article 11, paragraph 1, of the Covenant regarding the right to adequate housing, he informed the Committee that he would have one more page to add to it, dealing primarily with the reporting obligations of Governments and appealing to international organizations to take more account of such problems in their work. It should, however, be noted that the related issue of forced resettlement was the one area within the Committee's mandate that had in fact been taken very seriously by agencies like the World Bank, UNDP and the Organization for Economic Cooperation and Development.

47. The Committee had spent much time over the years discussing housing rights and the most tangible concomitant issue, forced evictions. It was a complex matter, in which the real problem was one of definition. The task was to define forced evictions in terms that were broadly applicable to the whole range of different situations. The draft general comment defined a forced eviction as an eviction involving force but which by definition was not carried out with the appropriate legal protection. The Committee had to define when an eviction was legal, and in what circumstances and under what conditions it should be carried out; it had to decide upon procedural requirements that were reasonable. Governments were to a surprising extent in agreement in theory with most of what was said in the draft general comment; they would usually argue that they carried out forced evictions after giving notice, after prior consultation, in accordance with the law, and with an attempt to relocate the people evicted. Governments must be able to evict

people, and there were many situations in which evictions were appropriate; the Committee was not endeavouring to ban evictions or even forced evictions.

48. There was a link between the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, article 17 of which proclaimed the right to the protection of the law from arbitrary or unlawful interference with one's home. Much of the right to adequate housing involved freedom from arbitrary or unlawful forced eviction, which was virtually indistinguishable from a standard civil and political right; indeed, the Human Rights Committee had made a general comment of its own on that point. It was an ideal opportunity for the Committee on Economic, Social and Cultural Rights to highlight the genuinely interrelated character of the sets of issues. It was also timely, in light of the forthcoming Habitat Conference, for the Committee to take advantage of the growing awareness on the part of NGOs and a large number of United Nations agencies of the right to adequate housing.

49. Mr. WIMER ZAMBRANO said that the term "forced evictions" was tautological in that an eviction was never other than forced. If it was voluntary it was not an eviction; the draft general comment should instead speak of "illegal" evictions.

50. The CHAIRMAN said that in a certain sense the term was tautological, but evictions were not forced when the person or persons evicted left their homes after being ordered to do so. It was important to discuss the terminology; two alternatives might be "arbitrary" and "illegal".

51. Mr. AHMED suggested using "justifiable" and "unjustifiable".

52. Mr. WIMER ZAMBRANO said that because there were cases which were legal under domestic law and illegal under international law, the term "legitimate" might be considered.

53. Mr. GRISSA considered that anything could be justified after the event. If a private landlord took his tenant to court for not paying the rent and the court ordered an eviction, should the Committee take up the matter? Would the landlord or the community be required to pay the social costs? That would violate another right, that of property. In the case of evicted persons who did not have the means to house themselves, the community should be responsible for providing at least temporary accommodation until they acquired the means to provide housing for themselves.

54. Mr. RATTRAY said that the concept of "forced eviction" implied that it was involuntary and that force had been used. It might be justified or unjustified, but it was important for an element of due legal process to have preceded it. Even where an eviction was forced, there was still the right to housing and the right to be resettled.

55. Mr. CEAUSU said that the prime concern should be whether evictions were carried out in inhumane circumstances that threatened the lives or health of the persons concerned, particularly children, elderly or sick persons, or pregnant women. In such cases, the draft general comment should state that no eviction could take place unless temporary shelter was provided.

56. Mr. AHMED said it was unrealistic to expect communities, which in most cases had insufficient means, to take responsibility for providing accommodation, even on a temporary basis.

57. Mr. SIMMA said that as with the procedure followed in previous general comments, for example on elderly and disabled persons it might be fruitful for the Committee to receive expert clarification of the terminology to be used.

58. Mr. MARCHAN ROMERO said that the Committee should seek to make a distinction between the gravity of different cases; to confine itself in its general comment to forced evictions might cause it to disregard other forms of illegal eviction. In his view, it might be useful to consider the term "unfair" evictions used by the General Assembly. An eviction might be legal even though forced, but in terms of the Covenant it might be considered "unfair".

59. Mr. TEXIER said the important point was that the right to satisfactory housing should prevail. An eviction might be lawful but not necessarily justified, and it was important that a property-owner should retain the right to evict a tenant who had the means to pay his rent but did not do so. Nevertheless, it was also important that there should be no resort to violence, especially involving women, children or elderly or sick persons. People should not simply be turned out on to the street without any recourse.

60. The CHAIRPERSON said that the Committee would be able to consider further the various suggestions that had been made following clarification of the terminology and once the draft general comment had been completed and made available in all languages.

The meeting rose at 6 p.m.



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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fourteenth session

SUMMARY RECORD OF THE 11th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 7 May 1996, at 10 a.m.

Chairperson: Mr. ALSTON

later: Mr. GRISSA

later: Mr. ALSTON

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CONSIDERATION OF REPORTS:

- (a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16
AND 17 OF THE COVENANT (continued)

Initial report of Guatemala (continued)

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GE.96-16171 (E)

The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS:

- (a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 4) (continued)

Initial report of Guatemala (continued) (E/1990/5/Add.24; HRI/CORE/1/Add.47; E/C.12/1995/LQ.9; written replies with no symbol)

1. At the invitation of the Chairperson, Mr. Díaz-Duque, Mr. Arranz Sanz, Mr. Alonzo Mazariegos and Mr. Olivero (Guatemala) took places at the Committee table.
2. MR. ARRANZ SANZ (Guatemala) introduced the initial report of Guatemala (E/1990/5/Add.24) on implementation of the International Covenant on Economic, Social and Cultural Rights, which had entered into force for his country on 9 August 1988. Submitted to the Committee in late 1994 in conformity with the rules set forth in the Manual on Human Rights Reporting and the general guidelines, it did not entirely reflect what was happening in Guatemala, given the changing situation. His Government had no desire whatsoever to conceal the truth and would attempt, through the delegation, to supplement the information contained in the report.
3. Under the Guatemalan Constitution, treaties and conventions signed and ratified by Guatemala took precedence over internal law, provided that the requisite procedure for their incorporation into internal law was followed. An appeal could be lodged on the ground of unconstitutionality.
4. He briefly summarized the various political and social developments in Guatemala during the past 10 years, years which had brought hope for democracy and for the observance and realization of human rights. Known as the period of "democratic transition", it had seen the holding of free elections and the establishment of three civilian Governments: the first from 1986 to 1991, the second from 1991 to 1996 and the third from 1996 to 2000. He described in detail the crisis which Guatemala had suffered as a result of the attempted coup d'état by the serving President on 25 May 1993; the crisis had been thwarted thanks to the immediate implementation of existing legal machinery. With the support of the various sectors of Guatemalan society and the international community, the Office of the Human Rights Procurator had had a major role in restoring normality and been one of the pillars of the democratic transition process in Guatemala. The Court of Constitutionality had also played a decisive role in the return to normality. A new Congress had been democratically elected, together with a new Supreme Court of Justice, which was depoliticized and honest. Those events had transformed the political, economic and social situation, and had had positive effects on Guatemalan society in general: constitutional reform, the peace process, action to combat poverty, economic and social development, the strengthening of institutions, action to combat impunity, the holding of free and transparent general elections, and the fulfilment of international commitments undertaken by the State in the area of human rights, notably under article 2, paragraphs 1 and 2, of the Covenant.

5. That political and social crisis had enabled progress to be made in the peace negotiations and had increased the State's concern for the observance of human rights. The State was now fully determined to fulfil its commitments towards the international community with regard to the Covenants and Conventions to which it had acceded. In particular, Guatemala's ratification of the International Covenant on Economic, Social and Cultural Rights had been confirmed by congressional decree and had taken effect on 8 August 1988. It formed part of a process of change that included the elimination of the practices constituting violations of human rights which had marked the political and social life of the years prior to ratification. The important role played by the Office of the Human Rights Procurator in the consolidation of the rule of law should be re-emphasized.

6. That period had also seen the opening of civil society, its difficulties being taken into account in the peace negotiations, the return of Guatemalan families who had taken refuge in Mexico, the reform of the Constitution following direct consultation of the people in order to adapt its provisions to the country's political and social reality, and a legal reform with the entry into force of the new Code of Criminal Procedure in July 1994.

7. The United Nations Mission for Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala (MINUGUA), initiated in November 1994, and the human rights advisory services had acknowledged in their respective reports that the Government had not pursued a policy of human rights violations; violations had unfortunately gone unpunished because of the difficulties encountered by the Government in that area.

8. During the second half of 1995 and in January 1996, elections had taken place under the supervision of the international community. The turnout had increased, particularly among the Maya, resulting in the election of indigenous mayors in about 100 municipalities, including 2 provincial capitals, those of Sololá and Quetzaltenango, the country's second largest city, and the election of 6 new indigenous deputies to Congress.

9. In the peace process, more than half the planned agreements had so far been signed. Particular mention should be made of the Agreement of 31 March 1995 on the Identity and Rights of Indigenous Peoples, which defined Mayan identity in terms of ancestry, language, dialect, world view, the role played by Mayan women in the protection of the group's heritage, philosophy, and artistic and aesthetic concepts. Also recently, on 22 and 23 February 1996, meetings had been held in Mexico City between the Unidad Revolucionaria Nacional Guatemalteca (URNG) and the Guatemalan Government. In the social field, he mentioned the development of community organizations. All those developments had been accompanied by economic progress; in 1995, inflation had fallen to 8.6 per cent, economic growth had reached 5 per cent, and tax revenues had increased by 33 per cent, in relative terms.

10. Referring to the establishment of legal provisions, he stressed the humanist nature of the Constitution, which reaffirmed the primacy of the individual and recognized the role of the family in the transmission of society's spiritual and ethical values and the role of the State in the

consolidation of the rule of law, security, justice, equality, liberty and peace. Considerable progress had been made in terms of constitutional guarantees, with the creation, for example, of a standing court concerned exclusively with amparo and whose principal purpose was to safeguard the constitutional order, and the establishment of the Congressional Human Rights Commission. The offences of extrajudicial execution, enforced disappearance and torture had been incorporated into the new Penal Code of 1995. The Legislative Commission was also studying the incorporation of the offence of racial and ethnic discrimination. In 1994, in order to enhance the effectiveness of justice, a Public Prosecutor's Office Organization Act had been promulgated and a new Code of Criminal Procedure had entered into force. Those innovations had brought about major changes in the conduct of investigations and criminal proceedings, and hence in combating impunity.

11. As the executive had decided to abolish the post of military commissioner, 24,000 people who had been serving as such had been demobilized in September 1995, and the Army Establishment Act had been amended accordingly. The 1995 Act on the deactivation of explosive devices and the Act on identity documents for the uprooted population should also be mentioned.

12. Articles 66 and 69 of the Guatemalan Constitution imposed an obligation on the Government to promote the economic and social development of indigenous peoples of Mayan origin. The executive, in consultation with the parties concerned, had therefore set up a Guatemalan Indigenous Development Fund.

13. He singled out five recent events (early 1996) to which his Government attached great importance: on 5 March, Congress had unanimously approved ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries; on 7 March, the Court of Constitutionality had declared unconstitutional articles 232, 233, 234 and 235 of the Penal Code, which had been recognized as discriminatory against women under the relevant international conventions; on 14 March, Congress had approved the Optional Protocol to the International Covenant on Civil and Political Rights; on 20 March, the URNG command had announced the unilateral suspension of its military offensives, following which the Guatemalan authorities had ordered the army to cease all operations against the insurgents; and on 6 May, an agreement had been signed in Mexico City on socio-economic and agrarian questions, with the aim of laying the foundations for participatory economic and social development. That agreement, reached after nine months of negotiations between the Government and the URNG, invited all sectors to encourage domestic and foreign investment in order to create jobs and establish firm foundations for development in the fields of education, health and housing and the rural sector. It called for a substantive increase in social spending to benefit the most disadvantaged segments of the population, lesser concentration of land, particularly for the benefit of the indigenous peoples, and the reorganization of public finances.

14. He could not leave unmentioned the action of MINUGUA following negotiations between his Government and the URNG under the auspices of the Secretary-General, resulting in the signing, on 29 March 1994, of the Comprehensive Agreement on Human Rights in Guatemala. In that Agreement, the parties had called on MINUGUA to ensure respect for human rights, investigate

complaints of human rights violations, and see to it that the competent national bodies were undertaking the necessary follow-up independently and efficiently. The parties had also expressed the hope that the Mission would be empowered to move freely throughout Guatemala, to meet freely with any person of its choosing and to carry out any visits to State premises and URNG camps it might deem necessary under its mandate. The Mission had also been mandated to cooperate with national institutions in the promotion of technical cooperation programmes and to assist public institutions, such as the Public Prosecutor or the Human Rights Procurator, and to foster the development of a human rights culture. To date, the Director of MINUGUA had submitted four reports to the Secretary-General. The recommendations on the action of the National Police had already been taken into account by the Ministry of the Interior.

15. Members of the police and the armed forces were receiving systematic training in human rights, along with copies of the Code of Conduct for Law Enforcement Officials, the Basic Principles on the use of Force and Firearms by Law Enforcement Officials, the Principles on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions, and the Body of Principles for the Protection of All Persons under Any Forms of Detention or Imprisonment. The Ministry of National Defence was organizing courses for its employees on international humanitarian law, with the assistance of staff from the International Red Cross.

16. He hoped that everything he had said reflected the political will of the Government to ensure respect for human rights, including economic, social and cultural rights. He none the less acknowledged that the Government still had a lot to do to remedy the problems faced by many people, including poverty, housing shortages and the lack of drinking water. In order to continue to make progress towards peace and development, the Government needed international solidarity.

17. The CHAIRPERSON thanked the delegation for its interesting oral statement, and particularly its outline of recent developments. Noting that the Government had drafted detailed written replies to the questions contained in the list of issues (E/C.12/1995/LQ.9), he invited Committee members to make comments and ask questions relating to section I entitled "General framework in which the Covenant is implemented".

18. Mr. ALVAREZ VITA expressed satisfaction at the high-ranking level of the Guatemalan delegation and the quality of its oral presentation. He congratulated the Government on its written replies to the list of issues, which were clear and well drafted, thus making the Committee's task considerably easier. Basically, the Guatemalan Constitution was excellent, particularly as concerned the protection of human rights. Unfortunately, as was well known, it had frequently been breached. In addition, the death penalty was still carried out - in defiance of the American Convention on Human Rights, to which Guatemala was a party, thus posing a serious problem concerning the implementation of the provisions of the Constitution and other laws.

19. Noting that the agreement signed on 6 May 1996 in Mexico City called for a major increase in social spending and reduced concentration of land ownership, he wondered if the Government would have the necessary resources to carry out the proposed measures. He had no doubt as to the goodwill of the Government, which had been in office only since January 1996, but wondered how the authorities intended to deal in practice with the serious difficulties the country was facing, which the delegation had made no attempt to hide.

20. Mr. Grissa took the Chair.

21. Mr. SIMMA noted with satisfaction that the initial report (E/1990/5/Add.24) had been drafted in conformity with the general guidelines, that the core document (HRI/CORE/1/Add.47) was very complete and that the written replies were detailed. He did, however, regret that the report was somewhat sketchy and felt that the core document had devoted a disproportionate amount of space - about 30 pages - to the past political development of the country, with just a few pages on recent history and the current situation. He also wondered about the almost incidental reference to an "internal armed conflict" in paragraph 496 (i) of the core document.

22. Regarding paragraph 449 of that document, he asked what was meant by the statement that the army was "one and indivisible". Was that meant to suggest that there were not, or had not been at the time of writing, any private military forces? As to paragraph 461, he was surprised that in the composition of the judiciary no mention was made of judges, although numerous courts were referred to, and wondered if that was simply a drafting error. He also asked for clarification on the issue of impunity and whether the Government was succeeding in overcoming the obstacles to its eradication. More information was needed on the status of the Covenant and whether it was undergoing the process of preparation and adoption as law by Congress, referred to in paragraph 506, which would enable it to be invoked before the courts.

23. Turning to question 3 of the list of issues, concerning an optional protocol to the Covenant, and the brief commentary on that question in the written replies, he asked whether the Government truly supported the elaboration of such a protocol. He also asked for figures and statistics on extrajudicial executions and enforced disappearances, both since the new Government had assumed office and in comparison with earlier years.

24. Mr. KOUZNETSOV, noting that, in reply to question 2 of the list of issues, the Government had stated that the Covenant took precedence over domestic law and could be invoked like any other law before the courts, asked whether in practice the Covenant had ever been so invoked. If not, why not?

25. Mr. MARCHAN ROMERO asked whether the constitutional reform process to which the representative had referred in his oral presentation would have an impact on economic, social and cultural rights.

26. Mr. TEXIER said it should not be forgotten that Guatemala was emerging from a very serious conflict which had cost the lives of tens of thousands of people and affected every segment of society. At the present time, which was

indeed a period of transition, there were encouraging signs. For example, about 100 indigenous representatives had been elected to municipal office and human rights activists had been elected as deputies.

27. Turning to the documents provided by the Government, he said that although the initial report did not give enough information, the written replies and oral presentation had been very satisfactory. He would welcome further information on several points. Had Guatemala ratified the Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights (a protocol which in fact was not yet in force)? What was the exact situation of the refugees who had returned to Guatemala? How were they living and had they been integrated? And he asked for details on the latest agreement between the President of the Republic and the URNG, which seemed to be of great importance. The agrarian question had been one of the causes of the armed conflict; it would therefore be interesting to know at some point what the agreement called for in terms of land distribution.

28. Mr. RATTRAY welcomed the copious information contained in the initial report and in the written replies, which stressed Guatemala's legal and institutional framework. However, there were limits to the enjoyment of economic, social and cultural rights, and the delegation, while recognizing that Guatemalan society could not solve its difficulties on its own, had appealed for international cooperation. The problems had arisen because of a situation with deep historical roots, and international cooperation would not suffice if the Government did not undertake far-reaching reforms. Additional information was needed on the measures taken by the Government in that area. He also asked for examples of what the courts were doing to implement the economic, social and cultural rights embodied in the Covenant, particularly with regard to housing.

29. Mr. THAPALIA, referring to paragraph 467 of the core document, asked for more information on the Human Rights Procurator. And did the security forces receive training in human rights?

30. Mrs. JIMENEZ BUTRAGUEÑO welcomed the abundant information contained in the initial report and the written replies of the Government but wished to know more about the recent agreement between the Government and the indigenous peoples on agrarian reform.

31. Mr. ARRANZ SANZ (Guatemala), replying to Mr. Alvarez Vita, said that the new Government was making every effort to dispel the scepticism of the international community concerning Guatemala's future, but was aware that in four years it would be unable to resolve all the socio-economic difficulties. The major problem it faced was the impunity enjoyed by persons who had violated human rights. A reform of the Code of Criminal Procedure was under way in order to eliminate provisions that perpetrated impunity. Such provisions included the alternative measures to which the judge could resort at his discretion, and which would allow him to release a prisoner at the start of the legal proceedings. In addition, the examining magistrate would have three months instead of six to bring a case to court. Attorneys, judges and witnesses would enjoy protection. On 15 May 1996, a new Procurator-General of the Nation would take office. That showed the political will of the Government to act against those responsible for human rights

violations. The Vice-President of the Republic had recently referred to soldiers and police officers, both serving and retired, who had perpetrated human rights violations, notably during the Xamán massacre, and who would be tried by civil courts. Representatives of the executive, legislative and judiciary branches held frequent meetings with the aim of combating impunity.

32. The Government was making efforts to increase tax revenues and spend more on social policy, health and housing. The "Explosion of peace" operation would begin at the end of the year. The previous Government had made fruitful contacts with international organizations in Paris in order to implement programmes designed to consolidate peace. A new land survey would be carried out to implement land reform. He hoped that those examples of progress would be reflected in Guatemala's next periodic report.

33. Regarding the death penalty, prior to 1995 it had been applicable only to homicide, in conformity with the Pact of San José; Congress had then extended it to other offences, including kidnapping. The Government had protested and the President had not signed the relevant law, which had been promulgated by Congress without his approval. Nevertheless, a death sentence for kidnapping could be appealed against on the ground of unconstitutionality. He recognized that there was a strong contrast in Guatemala between legislation and practice, but the Government had the political will to remedy the situation, particularly by combating corruption. It was in favour of ratification of the future Protocol relating to abolition of the death penalty.

34. Concerning extrajudicial executions, the problem was serious and very real, but it was difficult to provide statistics on the matter as the definitions of such executions used by the various human rights organizations varied considerably.

35. The CHAIRPERSON invited Committee members to ask other questions relating to section I of the list of issues.

36. Mr. MARCHAN ROMERO asked if the draft constitutional reform would have an impact on economic, social and cultural rights.

37. Mr. ARRANZ SANZ (Guatemala) said that the agreement on the definition of indigenous peoples currently under negotiation referred to articles 66 to 72 of the Constitution, which called for the drafting of a law to implement those articles; however, such a law had not yet been put into practice. The agreement under negotiation, which concerned the fields of education, the identity of indigenous peoples, and their health and languages, would therefore have effects on economic, social and cultural rights as embodied in the Covenant. The Comprehensive Agreement on Human Rights would pave the way for complete restructuring of the State and would also have consequences in the social, taxation and educational fields. Once those agreements were concluded, they would be ratified either by the Constituent Assembly or by Congress and be followed by a national referendum.

38. Mr. WIMER ZAMBRANO said that the situation in Guatemala was hopeful, as could be gauged from the fact that the Guatemalan writer, Tito Monterroso, who had been living in exile in Mexico City for 42 years, had decided to return to his country. He asked for more information on the statistical method used to

conduct the census of indigenous peoples. While it was easy to count those who lived in particular localities, that was more difficult in the case of people scattered around urban areas. He would also like to know how the Government planned to finance the agrarian reform.

39. Mr. ADEKUOYE said he was struck by the flagrant contradictions between the extremely liberal legislative provisions mentioned in the report and the actual situation. For example, paragraph 541 (c) of the core document was contradicted by Guatemala's reply to question 6 of the list of issues, which stated that non-governmental organizations (NGOs) had not participated directly in preparing the periodic report. NGOs should be closely involved in the protection of human rights in Guatemala, and he asked what ties existed between the Government and the NGOs in that regard.

40. It would be interesting to know whether Guatemala was trying to obtain aid in the form of international cooperation in order to ensure economic growth and thereby increase the resources available for facilitating the realization of the rights defined in the Covenant. Had the Government prepared a list of needs on which it wished to obtain bilateral or multilateral aid?

41. Mr. AHMED thanked the delegation for its candour and sincerity in both the written report and the oral replies, and for Guatemala's evident good will, which seemed encouraging. He welcomed the Government's apparent spirit of tolerance which had allowed senior Catholic clergymen and the Human Rights Procurator to criticize its policy freely. Those persons had firmly attributed to the Government responsibility for the violence and human rights violations and denounced the unjust and imbalanced distribution of land in Guatemala, which in the long term created an extremely dangerous and explosive situation. The President of the Republic had publicly admitted the scope of social injustice and, implicitly, of the lack of respect for the economic, social and cultural rights of Guatemalans. Agrarian reform and more equitable land distribution were vital in ensuring respect for those rights. The country needed a peaceful revolution where those rights were concerned and in that connection agrarian reform was crucial. He asked what measures the new Government had taken to introduce the economic, social and cultural reforms necessary to encourage the international community to help Guatemala. Was the Government planning to implement a programme for those reforms?

42. Mr. CEAUSU thanked the Guatemalan delegation for coming before the Committee for the consideration of the initial report and for the quality of that report, which he had found very useful. He none the less agreed with Mr. Simma that there was insufficient information on the causes of the difficulties and tensions in Guatemala. On the other hand, he was pleased that the brevity of the report had been offset by the written replies to the list of issues.

43. Regarding implementation of article 2 of the Covenant, on non-discrimination, he understood that the problem of the employment of foreigners, as perceived in Guatemala, seemed to consist less in defending the right of foreigners to work than in defending Guatemalan workers against foreign workers. That being the case he asked how many foreigners were working in Guatemala, what was the proportion of foreign investment and in

what sectors. Regarding implementation of article 3, on equality between men and women, he was surprised that, in its written reply to question 10 of the list of issues, Guatemala had said that Guatemalan men and women had equal "opportunities" and "responsibilities", but not that they had equal rights. He was dismayed by the choice of the word "opportunities", especially because it was clear from the report that it was very difficult to establish even a minimum degree of equality between men and women in Guatemala.

44. Mr. Alston (Chairperson) resumed the Chair.

45. Mrs. BONOAN-DANDAN thanked the delegation for its good will in replying to the Committee's questions. She nevertheless hoped that the situation with regard to the equality of women and discrimination against women would be evaluated in a comprehensive and integrated manner, and not in piecemeal, compartmentalized fashion sector by sector. The decision of the Court of Constitutionality to abrogate the articles of the Penal Code on adultery and concubinage, which systematically penalized women, was encouraging.

46. She cited the report of the Committee on the Elimination of Discrimination against Women (CEDAW) at its thirteenth session in 1994, in which the Committee had expressed concern that the Guatemalan Government had not attached great importance to legal provisions that discriminated against women, particularly in the Civil Code and in the provisions relating to family law. She asked what progress had been made in eliminating those provisions of the Civil Code since the convening of the 1995 seminar of the Presidential Commission on Human Rights. What had been the conclusions and recommendations of that seminar? What programme to combat discrimination against women had it adopted?

47. Mr. GRISSA thanked the delegation for making a point of replying to the Committee's questions. Noting Guatemala's reply to question 7 of the list of issues, he stated that there did not seem to be a definition of indigenous groups in the report. He asked for more information in that connection. Were they of Amerindian, African or other origin? Were there any statistics about them? Was inter-ethnic marriage a common practice? Could indigenous people hold jobs in the Government and serve in the armed forces?

48. After an exchange of views in which Mr. ADEKUOYE and Mr. WIMER ZAMBRANO took part, the CHAIRPERSON invited members to continue consideration of the replies of Guatemala section by section, following which the delegation would be able to answer all the questions together.

49. Mrs. JIMENEZ BUTRAGUEÑO said she was very concerned about the written reply to question 10, namely, that within the framework of marriage it was the husband who represented the couple and managed joint assets. She asked whether the Government planned to maintain that provision, given that Guatemala had signed the Convention on the Elimination of All Forms of Discrimination against Women without reservations. She was also very concerned at the statement in the reply to the same question that women could not accept remunerated employment outside the home without their husband's consent. In its conclusions on the latest report of Guatemala, CEDAW had recommended that Guatemala should bring its practices into line with the Convention, for example by ensuring that judges and others responsible for the

interpretation and enforcement of the law, as well as legislators, saw to it that the provisions of the Convention were fully integrated into internal law. Noting that that recommendation had not been acted on, she asked what the Government planned to do in order to eliminate all the existing discriminatory provisions against women in internal law.

50. Mr. MARCHAN ROMERO asked how important was the agreement on the identity and rights of indigenous peoples, cited in Guatemala's reply to question 7 of the list of issues, in the regulation of various aspects of the lives of those peoples. He also wondered in what way the indigenous groups had taken part in the negotiations on the agreement reached between the Government and the URNG. What was the nature of the procedure that had led to that agreement, and which of its provisions directly concerned non-discrimination?

51. Mr. ADEKUOYE asked for an explanation of the methods Guatemala used to classify its population by ethnic or racial category. He wished to know how many coloured persons or members of ethnic groups had seats in Congress and what was the ethnic or racial composition of the refugees who had returned from Mexico.

52. Mr. TEXIER said that question 7 was, in his opinion, the most fundamental question asked of Guatemala because a major cause of the conflict was the inequality between the indigenous people and the "Ladinos", a situation with deep historical roots. To facilitate consideration of the report, in all its oral replies on implementation of the articles of the Covenant cited in the list of issues, the delegation should provide information on the practical measures the Government was taking to secure the integration of the indigenous population within Guatemalan society by guaranteeing them full exercise of all rights on equal terms with the members of other groups.

The meeting rose at 1 p.m.



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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fourteenth session

SUMMARY RECORD OF THE 12th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 7 May 1996, at 3 p.m.

Chairperson: Mr. ALSTON

later: Mr. CEAUSU

later: Mr. ALSTON

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This record is subject to correction.

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS:

- (a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 4) (continued)

Initial report of Guatemala (continued) (E/1990/5/Add.24;
E/C.12/1995/LQ.9; HRI/CORE/1/Add.47)

1. At the invitation of the Chairperson, Mr. Arranz Sanz (Guatemala) took a place at the Committee table.

III. ISSUES RELATING TO SPECIFIC RIGHTS RECOGNIZED IN THE COVENANT
(arts. 6-15)

Article 6. Right to work (issues 11-22)

2. Mr. ALVAREZ VITA asked if the Guatemalan Government had any plan to guarantee respect for the right to work, especially in the case of day workers and those employed in export processing. It was clear from communications received that workers had practically no protection and that a number of unjustified dismissals took place. He asked what were the criteria for establishing the level of the national minimum wage, and whether there were any plans to raise it in the near future.

3. Mr. CAUSU noted that in the written reply to question 15 of the list of issues, it was stated that checks carried out by the General Labour Inspectorate of the Ministry of Labour and Social Security in 1994 had shown that minimum wages were not being paid in 50 per cent of cases, and that official inspections and special programmes had been carried out in 1995 resulting in minimum wages being paid in 65 per cent of cases. He asked about the powers of the Inspectorate, and specifically whether it could impose fines on employers who were found not to be paying minimum wages or not abiding by other provisions of labour legislation.

4. Mr. TEXIER said that although the table of main employment indicators for the period 1980-1990, contained in paragraph 20 of the report (E/1990/5/Add.24), gave an idea of the size and nature of the economically active population and of the rates of employment and unemployment, he would like more data, and in particular more recent data, on rural and urban areas, and the indigenous peoples. A more precise explanation of visible and invisible underemployment would be valuable, as would information on the share of the informal sector in the overall statistics.

5. Mr. GRISSA said he was puzzled by the figures given in the table in paragraph 20 of the report and in the reply to question 11 of the list of issues, which stated that 62 per cent of the economically active population worked in the informal sector. First of all, the table gave figures for the population "aged 10 and over"; he therefore wondered whether there was a minimum working age and, if so, what it was. The figure for unemployment in 1990 (57,958) represented only 2 per cent of the economically active population; he wondered how it was possible for a country where 62 per cent of

the economically active population worked in the informal sector to determine what constituted an unemployed person and therefore to speak of a rate of unemployment, let alone one that was so low. From the employment standpoint, Guatemala seemed to be a paradise.

6. Mrs. BONOAN-DANDAN said there seemed to be a contradiction between the reply to question 44 of the list of issues regarding the total number of hours of study and hours of work of child workers, which supplied copious details of Guatemalan legislation relating to child labour, and the reply to question 20 of the list of issues. The latter reply stated that child labour generally occurred in the informal sector, which was not covered by the General Labour Inspectorate, and that in the formal sector, inspection and correction programmes were carried out in order to keep child labour to a minimum. She requested clarification of the apparent discrepancy.

7. Mr. CEASU said, with reference to the main employment indicators set out in paragraph 20 of the report, that he would like to know how many people were employed in the various branches of the Guatemalan economy. The core document (HRI/CORE/1/Add.47) contained paragraphs giving information on the country's financial activities, especially the banking sector. In reading it, he was led to wonder how many of the economically active population worked in those areas and in general whether there was a balance in terms of employment between the various sectors of the economy.

8. Mr. RATTRAY said that the right to work had been addressed in terms of the formal and informal sectors, but the classification of the two was somewhat obscure. He had some doubt about the rationale of defining the informal sector as establishments of fewer than five persons and the formal sector as establishments of five or more persons. He would also like to know what social benefits accrued in each case.

9. Mr. AHMED said that the 1995 report of the Human Rights Procurator had criticized the Government's policy towards trade unions, minimum wages, the violation of workers' rights and the mass dismissal of workers trying to organize themselves into trade unions; the judiciary for failing to set up labour tribunals as required by the Labour Code; and traditional delays in the administration of labour justice, which had effectively prevented workers organizing themselves to protect their rights and engaging in collective bargaining. The Human Rights Procurator had appealed to the executive, legislature and judiciary to make a more consistent effort to create jobs, enhance the protection of workers, respect their right to organize and react to their demands. As the report had been published before the new Government had taken office in January 1996, he asked if it would be adopting a new approach to labour issues. Would the situation be remedied and labour rights guaranteed?

10. Mrs. JIMENEZ BUTRAGUEÑO said there should not be any child labour at all, even in the informal sector. The Guatemalan Government should ensure that it was kept to a minimum in both sectors of the economy, but starting with the informal sector. That was a top priority for the Committee, and the Government should face up to its responsibilities, especially with regard to abandoned children.

11. Mr. Ceausu (Vice-Chairperson) took the Chair.

Article 7. Right to just and favourable conditions of work (issues 23-26)

12. Mr. RATTRAY said, with reference to the right to work as it affected women, that it was obvious that in Guatemala there was deep-seated culturally based discrimination against women's work. It was stated in the written reply to question 23 of the list of issues that productive work by Guatemalan women must be compatible with the care of children, must to a large extent constitute an extension of domestic work, and must take place largely in the informal sector. It was stated in the reply to question 24 that the low level of participation of women in both the public and the private sectors was due not to discriminatory policies on the part of the State, but mainly to the prevailing idea in society that the division of labour on a gender basis was a "natural fact" stemming from biological differences. He asked whether, in light of those replies, the Government of Guatemala accepted that it had a duty to deal with such cultural factors in order to ensure employment for women.

13. Mrs. AHODIKEPE said that, according to a report by the United States Department of State, health and safety standards at work in Guatemala were inadequate. Other aspects of the right to work were implemented in an increasingly unsatisfactory manner. Workers in Guatemala had the legal right to refuse to work in dangerous conditions, but few risked losing their jobs by complaining, and no action was taken against those responsible for the dangerous conditions and poor standards. Inspectors were trained in labour health and safety, and many undertakings observed the regulations, but they were not enforced with sufficient vigour. She asked what the Government proposed to do to resolve the situation.

14. Mrs. BONDAN-DANDAN said she found offensive the statement in the reply to question 23 of the list of issues regarding the productive work of Guatemalan women, to the effect that one of the main characteristics of the incorporation of women in the labour market was that they undertook a double or triple working day, which included "reproductive work", or "the biological and social reproduction of mankind", and "domestic work to ensure the maintenance and reproduction of the labour force". It reduced women to the level of baby-making machines and used extremely discriminatory language.

15. Ms. TAYA said that statutory minimum wages were not sufficient to cover the minimum requirements of a family, and many workers were not even paid the minimum wage. She cited one case in which they were paid one eighth of the statutory minimum. Working conditions and wages were major causes of extreme poverty, and she asked what the difficulty was in increasing minimum wages and enforcing their implementation effectively. What plan of action did the Government have to improve the situation?

16. Mr. TEXIER said that he too would welcome more details regarding the minimum wage. The material in the report relating to article 7 (paras. 24 and 25) described the machinery for establishing the minimum wage, the sanctions applied for infringements of minimum wage agreements and the arrangements for supervision. He would like to know, however, how many persons actually received the minimum wage and what proportion of the employed

population they represented. What was the purchasing power of the minimum wage? Could a person receiving it provide for his own and his family's needs? Did it rise automatically with the cost of living or was it regularly revised and, if so, by what mechanism? The high proportion of the population reported to be living in poverty showed that the minimum wage was not respected, was set too low or was not reaching the majority of those working.

17. Mr. ADEKUOYE asked what machinery had been established to supervise the situation of female domestic workers in the context of the national minimum wage. What percentage of persons belonging to indigenous groups held high-level posts in the government bureaucracy and in management outside the public sector?

18. Mr. AHMED said that the minimum wage of 16 quetzales a day for commercial and industrial workers and 14.5 quetzales for farm workers was clearly not enough to provide a decent standard of living, since some 70 per cent of the population, including some 60 per cent of those in employment, were reported to be living below the poverty line. He asked what action the new Government envisaged to remedy that situation.

Article 8. Trade union rights (issues 27-32)

19. Mr. ADEKUOYE asked for an explanation of the statement in the core document that the trade unions in the various sectors had 77,113 members, of whom 73,013 were women. He had never before heard of a country in which there were more female than male members of trade union organizations.

20. Mr. GRISSA said that the problem of trade union rights was always difficult in a country at the stage of development reached by Guatemala. Most workers worked in the informal sector and were therefore not unionized. There remained the two other main sectors of employment: government service and the large plantations. No data had been provided by the delegation or in the report itself on the situation of trade unions in Guatemala. He would like to know the distribution of unions between the public and private sectors, whether civil servants had the right to unionize or strike, and whether teachers in particular could do so. He would also like more information on the position of unionized workers on the large banana and coffee plantations. Guatemalan history was not encouraging in that respect: conflict there had long been a major cause of revolt.

21. Mr. RATTEAY said it appeared from the report and other commentaries that trade unions were subject to a number of restrictions in Guatemala. For example, exercise of the right to strike required a two-thirds majority vote in favour. Agricultural workers were forbidden to strike at harvest time. The Government had the right to ban strikes which seriously affected the national economy and, in certain cases, the police were entitled by law to take appropriate action to ensure that work was not interrupted. The whole thrust of the conclusions of the report by the independent expert, Mrs. Pinto, on the situation of human rights in Guatemala (E/CN.4/1996/15) was that the forms that existed on paper needed to be made to exist in practice as well.

22. It was indicated by other sources that, regardless of the existence of the right to strike, few workers were willing to jeopardize their jobs by complaining about working conditions. In several cases, trade union leaders had been subjected to threats and aggression for their efforts to promote the exercise of freedom of association. He asked the delegation to indicate what new or renewed efforts the Guatemalan Government intended to make in order to enable workers to exercise freely the rights to form or join unions and to strike, as provided for in the Covenant.

23. Mr. TEXIER said that information had been received from the Guatemalan Human Rights Commission drawing attention to three recent instances of repression or attempted repression of trade union rights. In February 1996, a strike by some 2,000 unionized farm workers had resulted in their dismissal. A bill intended to regulate trade unions in the civil service had been opposed by the National Federation of Public Officials as violating their union rights. In two cases, family members of union leaders had been threatened or attacked. He asked whether that repression was continuing and what action the Government intended to take to prevent aggression against union activists and their families.

24. Mr. Alston (Chairperson) resumed the Chair.

25. Mr. GRISSA observed that, if farm workers were forbidden to strike at planting or harvest time, the right to form a union or to strike was meaningless.

26. Mrs. AHODIKEPE asked whether the labour courts that had been referred to were now functioning normally. Between 1992 and 1995, no decision had been handed down regarding workers' rights or labour legislation.

27. Mr. THAPALIA asked in what cases the right to strike was prohibited and where final authority to interpret the Labour Code rested in the case of disputes. How many hours had been lost through strikes in public and private industry in the past year? It had been reported that the national police force was seeking to form a trade union. Would such a union be guided by the same Labour Code as other workers? Were teachers and members of other professions allowed to form unions?

Article 9. Right to social security (issues 33-40)

28. Mr. AHMED asked how the widespread violence in Guatemala in the past few years had affected the right to social security. What percentage of the population would have access to social security under the new Government?

29. Mr. GRISSA said that paragraph 40 of the report quoted article 100 of the Guatemalan Constitution, promulgated in 1985, recognizing and guaranteeing the right to social security and establishing a social security system. In a country where the vast majority of the population lived below the poverty line and over 60 per cent of employed persons worked in the informal sector, what could the real value of such a provision be and how could it be applied in practice in that environment?

30. Mr. ADEKUOYE said that reference had been made, in reply to the question about the percentage of the population with access to social security, to a State pension scheme covering employees of the legislature and other bodies. He asked whether there were any categories of civil servants not covered and what contribution was made to the pension scheme by the employees themselves and by the Government. Reference had also been made to the negative impact of inflation on the various social security schemes in recent years. He asked what the rate of inflation had been and how the additional payments made to pensioners had related to it.

31. Mr. SIMMA said he understood, from the response to the question about social security and domestic workers, that under the Labour Code any serious illness of a domestic worker, most of whom were women, preventing her from performing her duties for more than one week entitled the employer to terminate her contract with no other obligation than to pay one month's wages for each full year of service. He asked whether there was anything resembling a social security net for domestic workers in such circumstances or whether they would be left completely unprotected.

32. Mrs. JIMENEZ BUTRAGUENO said that the figures which had been provided for social security coverage were for 1991. Was there any more recent information regarding the differences between the various pension schemes described, the level of the benefits paid and the relation of most benefits to the minimum wage? A large proportion of the population had never been able to contribute to a retirement or survivors' pension scheme and it was important to know the Government's intention with regard to them.

Article 10. Protection of the family, mothers and children [issues 41-44]

33. Mr. TEXIER asked whether the common-law marriages especially prevalent among the indigenous population, which were recognized in Guatemalan legislation, gave husband and wife and the children of the marriage the same legal rights as civil marriage, in matters of inheritance for example. Also, what was the ratio between religious marriages and civil marriages? On the number of hours worked by children, he noted that, according to figures provided by UNICEF, there were more than 1 million child workers in Guatemala, more than half of whom worked an average of 35 hours a week. That was already contrary to the provisions of the Labour Code whereby children aged 14 could obtain permission to work a six-hour day. According to the Constitution, moreover, children under the age of 14 should not be employed at all. In his view, the minimum age of 14 was too low. Had the Government any plans to raise it? He recognized that, in many cases, children were compelled to work for the family to survive; that was nevertheless contrary to the Covenant and the Convention on the Rights of the Child. He would be interested to learn what medium- or long-term policy the Government intended to adopt in that regard.

34. Mr. GRISSA asked whether the programme of assistance for widows and orphaned children who had fallen victim to violence in Guatemala protected the victims of both sides, those fighting for the Government and those who had fought against it. He noted from the reply to the question about the number of hours of study and hours of work of child workers that children under 13 worked six hours a day. Yet under the Education Act schooling was compulsory

for children of that age. How could they attend school? Was there any effective control at all over the hours worked by children? Also, were there any street children in Guatemala, as in some other Latin American countries, as a result of the war or other circumstances and, if so, what was being done to help them?

35. Mr. ADEKUOYE expressed appreciation for the frank reply to the question about the problem of domestic violence. What was needed was an intensive programme of education over a very long period, not just for law enforcement officers but for the population as a whole, if domestic violence was to cease to be accepted as natural. He asked what the Government was doing in that regard. He also asked whether there was any difference in the attitude of the indigenous population and that of other racial groups to domestic violence, or between the attitudes of the illiterate and functionally illiterate population and of the more privileged elite.

36. Mrs. BONOAN-DANDAN commended the frankness of the Government's written reply to issue 42, which was in marked contrast to its insensitive treatment of issue 23. As Mr. Adekuoye had noted, traditional attitudes seemed to be responsible for people's refusal to acknowledge the problem of domestic violence against women. In Guatemala, as in many societies, women themselves tragically accepted such discrimination as their lot, convinced of their inferiority to men. Women, as well as men, needed to be educated as to their rights. To what extent were women informed of legal recourses available to them in cases of abuse? The Government had admitted that there were currently no civil means available for lodging complaints of physical, psychological or sexual abuse, but had stressed that a bill relating to domestic violence was currently before Congress. If, in the Government's own words, legislation had no real effect on the attitudes of the judiciary, which persisted in minimizing the man's culpability, what measures would ensure that the new legislation, once adopted, would be applied in practice? It appeared that domestic violence against women was merely being disguised as a health statistic (numbers of cuts, bruises and miscarriages reported) rather than considered as a serious social problem requiring psychological treatment and legal action. She would also like to know the incidences in Guatemala of child prostitution and substance abuse among children of both sexes.

37. Mr. SIMMA said he had subjected the Government's written replies to a gender-sensitive analysis and rather suspected that the dry, legalistic passages had been drafted by men, whereas women had probably been responsible for the more openly critical remarks, which were occasionally scathing of the Government and seemed to amount to a cry for help. Could the Government explain what particular features of the new bill would encourage women to come forward without fear, confident that their complaints would be taken seriously?

38. Mrs. AHODIKEPE, referring to the Government's initial report (E/1990/5/Add.24, para.49), asked for clarification of the term "perpetually and exclusively" as applied to the marriage union. Was divorce permitted in Guatemala? Given the large numbers of children in difficult circumstances, was adoption encouraged with a view to affording them a better chance in life? She also asked the Government to describe its attitude to the enlistment of children in the armed forces.

39. Mr. CEAUSU, referring to the Government's reply to issue 43, queried the figures concerning numbers of orphans and widows resulting from the armed conflict. Only a small proportion appeared to be targeted for protection. The Government had stated that those groups were organized to carry out "income-generating productive activities". Were some orphans not too young to be thus employed? As in all countries, there must also be a proportion of children abandoned and orphaned not as a direct result of any conflict. He asked how many children were brought up in public orphanages and how many such institutions existed in Guatemala.

40. Mr. WIMER ZAMBRANO observed that Mrs. Ahodikepe's question regarding minors drafted to perform military service was most pertinent since many children in Guatemala had been forced to take part in the armed conflict against their will. How was the present Government proposing to demobilize those children and what was its attitude towards current military service legislation? Were the internationally-recognized rights of conscientious objectors being respected?

41. Mrs. JIMENEZ BUTRAGUEÑO said she was alarmed by the apparent complacency over domestic violence against women and recommended that it should be given priority attention by the present Government. As other members had noted, it was important to promote respect for the other sex through education. If a man was never punished for beating his wife, he was not likely to desist from such behaviour. The traditional acceptance of women's submissive position must be overcome, especially since Guatemala had ratified the Convention on the Elimination of All Forms of Discrimination against Women without reservations.

42. Mr. RATTEAY noted that the report indicated widespread acceptance of the custom of consenting cohabitation of men and women, especially in rural areas. The institution of common-law marriage did not arise *ipso facto* from such cohabitation after a period of three years, but additionally required an act of formal registration. He was aware that in some societies people were inhibited by the official registration procedure. How many marriages had actually been formally registered and how were they dissolved? In so far as there might be unregistered common-law marriages, what legal obligations arose when they were dissolved, in order to guarantee the rights of spouses? He inquired whether the concept of "palimony" existed in Guatemala.

Article 11. Right to an adequate standard of living (issues 45-50)

43. Mr. SIMMA, referring to the Government's written reply concerning the legal regime governing evictions (issue 48), queried the use of the term "illegal occupation of property" and expressed surprise at the detailed description of criminal procedures adopted in such cases. He stressed that the Committee was actually more concerned with the protection of the rights of those being evicted and urged the Government to submit more adequate information once the delegation had studied the compendium of legal regimes concerning forced evictions to be provided by the Secretary.

44. Mr. GRISSA drew attention to the extremely high proportion of the population deprived of adequate housing (E/1990/5/Add.24, para. 59) and asked what was being done to remedy the situation. He requested clarification of the term "illegal settlements" in paragraph 63 of the report and asked whether the inhabitants of such settlements faced eventual expulsion.

45. Mr. TEXIER recommended that the Government should pay particular attention to article 11 and noted that loss of land seemed to be one of the main causes of poverty and armed conflict in Guatemala. With regard to the reallocation of land, what measures were being taken to ensure that all rights under article 11 would be respected? The Committee's concluding recommendations must emphasize the vital role of international cooperation. It was, after all, the duty of the United Nations to facilitate the peace process. With the advent of peace, there must be no curtailment of aid; the dire consequences of such action had been witnessed in El Salvador and Nicaragua. Given the enormous deficit of adequate housing, what long-term housing programmes were envisaged by the Government? Since a large proportion of the population had been displaced by the armed conflict, both within Guatemala and to neighbouring countries, what measures were being taken to ensure that refugees' and returnees' rights under article 11 were being respected?

46. Mr. ADEKUNYE asked how the Government intended to ensure that food-aid imports constituted a short-term policy, so as not to jeopardize the encouragement of domestic agricultural production, already affected by a significant population shift from rural to urban areas.

47. Mr. AHMED observed that despite the severe housing shortage and deplorable housing conditions described in the report (paras. 58 et seq.), now compounded by the gradual return of approximately 1 million displaced persons, the Government had in 1996 allocated only a minuscule 0.35 per cent of its budget to the housing sector (reply to issue 47). Under the new conditions of peace, did it intend to devote some of the funds formerly used for military purposes to alleviating the housing situation?

48. Ms. TAYA pointed out that a mere 3.2 per cent of the population owned 65 per cent of the arable land in Guatemala, whereas approximately 470,000 rural families were landless. According to information from NGO sources, there were almost 4 million uncultivated hectares of good land owned by the State or by private individuals, which would suffice to give each landless family access to an average of seven hectares. She wondered what the difficulties would be in so apportioning that land.

Article 12. Right to physical and mental health (issues 51-56)

49. Mr. MARCHAN ROMERO asked, given the decline in government health expenditure since the 1980s (report, para. 87) and the 1996 allocation of only 10.6 per cent of the total budget to health (reply to issue 52), what plans the Government had to build up the strong health programme that was needed, for instance, to combat the alarming incidence of cholera and dengue fever.

50. Mr. TEXIER wondered whether the Government was planning to institute a mandatory national health policy (which apparently did not yet exist - report, para. 85) that would enable more funds to be appropriated for health and reduce the many inequalities described in the report, such as the infant mortality rates that varied widely between the urban and rural populations, the various rural sectors themselves, and the indigenous and non-indigenous populations.

51. Mr. ADEKUOYE observed that the delegation's reply to issue 51 had actually attempted to define a number of government health policies, plans and targets, but had also indicated elsewhere that only 90 "health units" - an unclear term - were equipped to provide services for almost 500,000 patients. The Government seemed to realize the country's escalating health needs. He would therefore like an explanation why, under the circumstances, the actual percentage of the budget allocated to health had been reduced in 1996 (reply to issue 52), and whether any new health centres were planned, with what coverage, over the next five years. Also, more information would be useful on what had been done in the past three years since the new Government had come to power.

52. Mr. GRISSA said that there was a terrible discrepancy between the health conditions of the upper-income groups and those of the lower-income groups: infant mortality rates, for instance, were 12 times higher for the latter. There were virtually two nations and it was a wonder that they could coexist peacefully. It was not clear from the infant mortality rates given in the report (para. 105) how the figures, broken down geographically, differed among the indigenous and non-indigenous populations.

Articles 13 and 14. Right to education (issues 57-65)

53. Mr. GRISSA observed that only one descriptive paragraph had been devoted to education in the report (para. 116) and that the written replies did not say much on the subject either. More data were needed on the comparative literacy rates of the indigenous/non-indigenous and rural/urban populations.

54. Mr. TEXIER asked whether the Government had plans to reduce the huge gap between the constitutional guarantee of free, compulsory primary education for all and the actual situation where, by the delegation's own account (reply to issue 58 on school attendance), many school-age children did not enjoy that right.

55. Also, it was not clear from the reply to issue 59 regarding the literacy system, whether any teaching was done in the schools themselves in any of the indigenous languages as well as in Spanish. Since the higher illiteracy rates among the indigenous population (core document, para. 153) were necessarily compounded by the language barrier, more information on the Government's plans to remedy the problem would be useful.

56. Mr. SIMMA asked, regarding issue 64 and the teaching of religion in the public schools, what in practice was the effect of the provision in article 73 of the Constitution and article 103 of the National Education Act (cited in the written reply) that religious education would be optional in public schools and non-discriminatory. Could, for instance, Muslim as well as

Catholic religious beliefs be taught? Also, regarding education in general, he would appreciate specific figures comparing the salaries of teachers at all three levels of education to the salaries of equivalent civil-service personnel, and relating them to actual standards of living.

57. Mr. ADEKUOYE, referring to adult education, cited outside reports that courses for farmers who were being taught to read and write under the post-literacy programme run by the National Literacy Committee (CONALFA) and described in the reply to issue 60 had been closed down by the Government because they were considered hotbeds of rural agitation. That did not seem to be a proper response by Guatemala to the enjoyment of a right guaranteed under the Covenant. He also wondered to what ethnic group such farmers belonged, and what the overall success rate of adult literacy programmes had been.

58. Mr. THAPALIA, referring to issue 65 and the study of human rights, asked for more information on what the Government was intending to do in order to include the teaching of human rights at the various levels of education and to provide formal and informal human rights education to the different sectors of society.

Article 15. Right to take part in cultural life, to enjoy the benefits of scientific progress and to benefit from the protection of intellectual property rights (issues 66 and 67)

59. Mr. GRISSA, noting that it was government policy to promote cultural activities and the cultural identity of the various groups in society (report, paras. 117-131, and written reply under art. 15), asked if there had been any revival of the ancient languages of Guatemala, which had such a rich Mayan heritage, and if indigenous languages were actually being used in any cultural activities.

60. Mr. RATTRAY asked for more specific information about the extent of the Government's conscious effort to increase an awareness of the cultural heritage of the country (report, para. 125), especially among indigenous peoples. He also wondered whether the perception of the ordinary citizen in Guatemala was that European culture was superior.

61. Mr. ARRANZ SANZ (Guatemala) said that the avalanche of questions put by the members of the Committee, expressing so many concerns, echoed his Government's own concerns, for it too was well aware of all the problems singled out. In response to those questions at the next meeting, his delegation's answers would be very broad, giving an overall synthesis rather than highly detailed plans and projections. That was unavoidable on such short notice and in the case of a nation emerging from 35 years of armed conflict which had made necessary the total reconstruction of the country. His delegation would be able to describe the general outlines of the Government's aims.

The meeting rose at 6.05 p.m.



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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fourteenth session

SUMMARY RECORD OF THE 13th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 8 May 1996, at 11 a.m.

Chairperson: Mr. ALSTON

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The meeting was called to order at 11.05 a.m.

CONSIDERATION OF REPORTS:

- (a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 4) (continued)

Initial report of Guatemala (E/1990/5/Add.24; core document HRI/CORE/1/Add.47; list of issues (E/C.12/1995/LQ.9); written replies distributed without a symbol in English and Spanish) (continued)

1. The CHAIRPERSON invited the Guatemalan delegation to continue its answers to the questions put to it at previous meetings. He also invited the members of the Committee to seek any further clarification they deemed necessary.
2. Mr. ARRANZ SANZ (Guatemala) said that he saw the concerns expressed by Committee members not as criticisms but as a mark of interest in the difficulties being experienced by his country. He would endeavour to group by subject his replies to the questions asked at the previous meeting and would comment on the context and methods of implementing the measures provided for by the Government. There was, of course, a time-lag between the Government's intentions and the laws, on the one hand, and action, on the other. The Committee would, however, no doubt appreciate that the realities of a situation could not be changed with one wave of a magic wand.
3. For a proper understanding of the existing situation, it had to be appreciated that the internal armed conflict, which had lasted 35 long years and had, it was to be hoped, come to an end at last, had been brought about by socio-economic problems. It had subsequently assumed a definitely ideological character, and the socio-economic aspects had been pushed into the background. But with the collapse of the major ideologies, the original causes of the conflict had been shown up again, and that was the context in which the negotiations between the Government and the UNRG that had led to the end of the conflict had taken place. It was now the Government's intention to strengthen civil society in the hope that by relying on that society, it could guarantee peace and national reconstruction.
4. As a token of its political determination to transform the country, the Government had entered into specific commitments in a number of areas; it trusted that the international community would monitor the observance of those commitments. Ramiro de León Carpio, the former President, had already made the following entreaty to international bodies: "Please, bring pressure to bear on us" ("us" meaning the Government and the guerrillas). The Guatemalan Government was still calling for positive pressure and marks of solidarity from the international community, since it was convinced that it could not on its own solve all the problems it faced and that aid was just as important when peace had been achieved after a long conflict.
5. The Government in the agreements reached at the negotiating table, had entered into undertakings on its own behalf and on that of the population. Those undertakings would have a significant impact on economic, social and cultural rights inasmuch as their purpose was to solve the actual causes of

the conflict. They set forth guidelines but made no reference to special programmes, which were drawn up by joint commissions composed of representatives from the national authorities and from civil society. As already noted, the Government intended to encourage the emergence of a participatory environment and placed considerable reliance on the participation of representatives of civil society in restoring conditions conducive to the exercise of economic, social and cultural rights throughout the country.

6. The various agreements reached at the negotiating table included, first, an agreement on the identity and rights of the indigenous people which recognized the pluricultural, multi-ethnic and multilingual character of the Guatemalan State. It provided for the elimination of all forms of discrimination against the indigenous peoples, the participation of indigenous peoples in decisions of concern to them, and recognition of the economic, social and cultural rights of the indigenous people. To that end, the Government had undertaken to introduce the necessary constitutional and legal changes. Under the agreement, the Government also undertook to protect the situation of indigenous women - it had, for example, tabled a bill in parliament making sexual harassment of indigenous women a criminal offence and had set up a body for the protection of the rights of indigenous women - and to promote indigenous languages and make their use official. Since there were 21 Maya languages alone, it would be a slow and difficult task to make their use official since all aspects of life, and particularly the names of persons and place names, were involved, with all the repercussions that had on entries into civil status and land registers. The agreement on identity and the right of indigenous peoples was also designed to foster the special spiritual nature of those peoples and respect for sacred places, to encourage the wearing of traditional costume and to recognize skills and techniques of Mayan origin. It recognized the authorities of the indigenous communities, the participation of indigenous people at all levels and the customary law and rights of indigenous people over land - a fundamental question that would be dealt with in more detail later. The five joint commissions provided for under the agreement were responsible for making the indigenous languages official, for sacred places, educational reform, questions of reform and participation, and the land tenure question, respectively. MINUGUA had been asked to make sure that the undertakings entered into were observed.

7. Uprooted peoples formed the subject of another agreement. The Government had entered into a number of commitments in that area too, in particular concerning the allocation of geographical areas, taxation, the establishment of zones of peace, the introduction of essential services for health, housing, education and nutrition, assistance for professional rehabilitation of uprooted persons and the granting of aid for women heads of family who could now be the recipients of a loan or of financing. The agreement also provided for the creation of joint commissions composed of representatives of uprooted people, the Government and international bodies which were made responsible for ensuring that the measures contemplated were implemented.

8. His delegation had the previous day received the text of an agreement on economic and social problems which he would transmit to the Committee for it to take into account when it came to evaluate the situation in Guatemala. The agreement, which should transform Guatemalan society, dealt with education,

vocational training and health, among other matters. In the case of health, it placed emphasis on prevention and rehabilitation and also on the strengthening of the Ministry of Health and the implementation of policies that would enable the whole of the Guatemalan population, including those on low incomes, to have access to the health services. By the year 2000, the Government planned to have increased the public resources devoted to health by at least 50 per cent compared with 1995. That figure would be revised upwards if trends in the taxation situation so permitted; a taxation reform was envisaged to that end. The agreement also dealt with indigenous and traditional medicine, social participation and decentralization of the health administration.

9. The agreement treated social security as a tool of solidarity, for the purposes of social welfare. It provided for the fully independent administrative management of the Guatemalan Institute of Social Security. Under the relevant ILO Convention, which Guatemala had ratified, social security must provide for medical care programmes and sickness, maternity, old-age, invalidity and unemployment benefits. The principle of the universality of the Guatemalan Institute of Social Security would have to be strengthened and the conditions created to facilitate the social security coverage of all workers including, for example, domestic employees.

10. Under the agreement, the Government would endeavour to make good the housing deficit and improve existing housing. A physical planning policy would be implemented to enable the most deprived to have access to adequate housing. Furthermore, standards of building safety and hygiene would be updated in coordination with the country's local councils. A policy for increasing the supply of housing throughout the country would be introduced and the supply of services, accommodation and building materials would be promoted. Also, a new monetary policy would be introduced to reduce the cost of loans and open up access to housing. To that end, the Government undertook to devote at least 1.5 per cent of the budget, as from 1997, to housing development policy. Priority would be given to the financing of low-cost housing.

11. As to employment, the Government would endeavour to decentralize and extend work inspection services with a view to strengthening the monitoring of the application of the labour standards laid down in various conventions ratified by the Government, special attention being paid to the labour rights of women and of agricultural migrant and seasonal workers, as well as of the elderly, minors and the vulnerable categories of the population. In addition, the Government would do all in its power to strengthen and modernize the Ministry of Labour.

12. Agrarian and rural development involved not so much the introduction of agrarian reform as improvement of the agricultural sector. The Government would facilitate the access of peasants to land ownership and rational land use. To that end, it would create a Special Fund (Fondo de tierras) by means of a joint loan and savings banking institution for the use of small and medium-sized farmers. The Fund would deal with public financing and land acquisition, encourage the introduction of a transparent market in land and promote the elaboration of territorial reorganization programmes. Under the policy for the granting of land, priority would be given to the peasants who

would form organizations for the purpose, with due regard for the criteria of economic and environmental durability. The Fund would be made up initially of landed property consisting of fallow land and real estate belonging to the nation; land which had been allocated in an irregular manner in some settlement areas and particularly at Petén (the Government undertook to recover that land through legal channels; in point of fact, it had been allocated in an irregular manner in the past owing to the lack of a land registry); land the Government would acquire with resources intended for the Fonatierra and Fonapaz Funds, set up to purchase from the owners land not in use for transfer to displaced persons or persons who returned to Guatemala; land purchased through donations from friendly Governments and international non-governmental organizations (NGOs); land obtained with loans from international finance agencies; land not in use that was subject to expropriation in accordance with article 14 of the Constitution; and land that would be acquired with resources derived from the sale of private land of a surface area not corresponding to that registered with the competent public body.

13. The CHAIRPERSON invited questions from members of the Committee, particularly concerning the last agreement referred to.

14. Mr. CEAUSU, welcoming the delegation's detailed statement, said that he would like it to provide the Committee by way of illustration with some data supported by figures. So far as land distribution and the Fondo de tierras were concerned, would it be possible to request land owners to surrender any land they were not using for distribution to those who had none?

15. Mr. GRISSA said that he was gratified at the measures the Government was committed to taking. Did it plan to limit the area of landed property and could the measures contemplated apply to property belonging to the Church as well?

16. Mrs. BONCÁN-DANDAN said that she would like to know whether there were any "ancestral lands" in Guatemala which belonged to the indigenous people. If so, what was the Government's approach to the matter?

17. Mr. TEXIER said that the delegation and the committee were bound to welcome the signing of the recent agreement, which was of fundamental importance for Guatemala's future. He also welcomed, among other things, the reforms envisaged by the Ministry of Health. He feared however that the questions of discrimination and possession of land might be the most difficult to settle, particularly bearing in mind that the question of land tenure was at the root of the conflict that had occurred in Guatemala. In his view, society at large must be involved in such measures: some reticence could be expected from the owners of the large landed estates and the more conservative sectors of society so far as reorganization of land tenure was concerned. To give effect to those measures the Government would need considerable financial means as well as political will. What was its planned budget for the implementation of such reforms? What part would international cooperation play in the economic and social aspects of the peace agreements that had been signed a few days earlier? In his view, civil society as a whole should be associated in those agreements. Once MINUGUA had completed its task, a firm commitment would be needed - on the part of the Government, the guerrillas,

when they had become a political force, the Guatemalan people and the international community to which the Committee should make a strong appeal - if those medium- and long-term changes were to be implemented effectively.

18. Mr. ALVAREZ VITA said that the information about the political process that had just started in Guatemala, with which the Guatemalan delegation had provided the Committee in its oral presentation, was fascinating. Although all the projects the Guatemalan Government hoped to undertake were interesting, it was doubtful whether they could be financed without significant international aid. He would like to know whether the "sacred places" referred to by the Guatemalan delegation were lands devoted to pre-Hispanic religious rites. He would also like to know whether the Government planned to recognize officially the exercise of the traditional medicine of the indigenous peoples. Lastly, he would like to know whether the lands the Guatemalan Government hoped to redistribute had been the subject of a detailed study. Were they productive or barren lands? Were lands belonging to indigenous people protected against eviction measures? Was the land that was uncultivated good and workable land?

19. Mrs. JIMENEZ BUTRAGUEÑO said that it would be useful for the Committee to know how the Guatemalan Government planned to implement tax reforms and whether it was contemplating, for example, modifying the share of the tax burden to the detriment of the privileged classes.

20. Mr. ARRANZ SANZ (Guatemala), thanking the Committee for its interest in the situation in Guatemala, said that the agreement concluded only recently by the Guatemalan Government, on which he had just commented, was part of a medium- and long-term strategy that would make it possible to tackle the root causes of the armed movement. The Government's programme of action included in particular tax reforms over a period of six to seven years which should release the necessary funds to finance the changes envisaged.

21. The uncultivated land was not unproductive or barren land but land that, for various reasons, was not worked. So far as protecting the properties of indigenous persons was concerned, the Government was hoping to update the land registers so that the ownership of small indigenous owners was duly recorded. Eviction measures were taken only against those who occupied land belonging to private individuals; every eviction measure was based on a properly drawn up judicial order and was carried out peacefully. The Government had also set up a land commission to study measures to prevent occupations of land and evictions. Contrary to certain information, since 1995 only 130 farms had been occupied. The agreement just concluded by the Government laid down the bases for a solution to the very tricky problem of land ownership. It was important to note, however, that, strictly speaking, what was involved was not agrarian reform but a modernization of land resources in which civil society was playing an active part.

22. The only limitations applicable to private property were those defined in the law on uncultivated land. The rights of owners of other types of land were limited only by the constitutional principle that the general interest prevailed over individual interests. Expropriation was permitted under the law on uncultivated land. Indigenous medicine was not subject to any official regulation and was simply practised traditionally by indigenous peoples to treat themselves.

23. With regard to Mr. Alvarez Vita's question concerning the cultural practices of the indigenous people, the Guatemalan Government respected their cultural choices and had no intention of imposing on them language or clothing of any particular kind. On the contrary, the Government would ensure that the cultural realities of the indigenous population were studied in educational programmes.

24. As to "sacred places" pre-Hispanic sites did exist in Guatemala, particularly temples sited in protected areas. The Guatemalan Government intended to respect the religious practices of the indigenous people and would not attempt to impose Western culture upon them. He would add, for the information of Mr. Alvarez Vita, that the question of ancestral lands had still not been examined in detail. The Government was not, however, expecting to buy back ancestral lands but merely to bring the land registers up to date so as to record the legitimate owners of real estate.

25. With regard to Mr. Grissa's question concerning ecclesiastical land, in accordance with the Constitution the State issued the Roman Catholic Church with documents of title to property that had already belonged to it for a number of years except for land that the State set aside for public utility services.

26. With regard to Mr. Texier's question concerning the cost of the peace agreements, the cost of each undertaking signed by the Government had been spelt out in detail; he would supply the Committee with precise information in that connection before the end of the session. The Paris Club had, however, promised to finance the implementation of projects that resulted from the peace agreements.

27. With regard to question 21 on the list of issues (E/C.12/1995/LQ.9), in 1995 the Fund for the Rehabilitation of Workers and Producers had invested 27 million quetzales in the purchase of agricultural holdings with a total area of approximately 387 caballerías (about 16,560 hectares), which had been redistributed to 911 families. The Fund was studying the possibility of purchasing 46 holdings which would be allotted to displaced persons or refugees on the basis of the productive capacity, not the area, of those plots.

28. Mr. WIMER ZAMBRANO said that there had been a marked change in the situation since the last major agrarian reform undertaken by President Arbenz in the 1950s and, for the first time in its recent history, Guatemala had a civilian Government, dominated neither by the military nor by the landowners. What he would like to have was not precise statistical data on the current reform but a general indication of the extent of that reform. He would also like to know the maximum land area that a single landowner could have. He further inquired who, apart from the large landowners and transnationals, were opposed to the project, and what other obstacles there were to its realization.

29. Mr. ARRANZ SANZ (Guatemala) said that he could not yet give a precise indication of the extent of the agrarian reform but one thing was certain: the plan was to provide every needy family with the land needed to live, bearing in mind its productivity. In all, one third of Guatemalan land could be involved, since much of it lay fallow for the reasons already given.

30. The question of compulsory military service was currently being examined. The Congress of the Republic had before it three bills on the introduction of a voluntary military service and recognition of conscientious objection. The first bill emanated from the second largest Guatemalan party, the Guatemalan Republican Front (FRC); the second had been submitted by the Frente Nueva Guatemalan, to which a third of the deputies in Congress belonged; and the third came from the army itself. As far back as 1995, by decision of former President Ramiro de León Carpio, forced recruitment had been halted, as was recognized by MINUGUA and various supervisory bodies in Guatemala. Also, it was no longer the practice, despite a few exceptions, to recruit minors.

31. Mr. TEXIER said that he was pleased there was no longer any forced recruitment. He would, however, like to know whether the civil defence patrols had been disbanded or whether they continued to recruit.

32. Mr. ARRANZ SANZ (Guatemala) said that the civil defence patrols still existed. The Government had undertaken not to create new ones and to allow those that did exist to disband. They had been set up in the 1980s and, in principle, recruited on a voluntary basis. For the past two years, the voluntary nature of the recruitment had been highlighted so that everyone would be aware of it. In 1994, a study carried out by the office of the Procurator for human rights to check whether recruitment had indeed been effected on a voluntary basis had reported moral pressure, showing that, in some cases, the voluntary aspect had been more formal than real. The creation of new patrols was not encouraged. They would all be disbanded when the final peace agreements were signed. The Government had undertaken to prosecute and punish members of the patrols who violated the human rights.

33. The problem of street children was of great concern on account not of their number - in a country where 46 per cent of the population were under 15 years of age, they represented but a small proportion - but of their tragic lives as the victims of very serious acts of violence which, until recently, went completely unpunished. Matters were starting to change and a standing body set up by the presidential commission on coordination of the policy of the executive in the matter of human rights (COPREDH) was following the developing situation of those children. A large foundation was currently being set up to help them, as was a programme administered by the Office of the Procurator for human rights with the assistance of the European Union to start up projects for such children. The main problem facing Guatemala, however, was not the street children but children who were victims of violence and children who were displaced because of the war. Guatemala was making a major effort to resolve those difficulties, but the social and economic situation did little to help. A new code of the minor, currently before the Congress of the Republic on third reading, proposed more realistic solutions to the problem of children who were in conflict with the law.

34. Mr. MARCHAN ROMERO said that he was surprised to find no reference to the use of narcotics in the report. Did that mean there was no such problem in Guatemala?

The meeting rose at 1 p.m.



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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fourteenth session

SUMMARY RECORD OF THE 14th MEETING

Held at the Palais des Nations, Geneva, ,
on Wednesday, 8 May 1996, at 3 p.m.

Chairperson: Mr. ALSTON

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS:

- (a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 4) (continued)

Initial report of Guatemala (continued) (E/1990/5/Add.24;
E/C.12/1995/LQ.9; HRI/CORE/1/Add.47)

1. At the invitation of the Chairperson, Mr. Arranz Sanz, Mr. Mazariegos and Mr. Díaz-Duque (Guatemala) took places at the Committee table.
2. Mr. ARRANZ SANZ (Guatemala), replying to questions regarding Guatemala's implementation of the provisions of human rights instruments, said that article 46 of the Constitution established the precedence of international law over internal law. There was no precedent for the direct invocation of provisions of international treaties in Guatemalan courts. However, the constitutionality of articles 232-235 of the Penal Code governing adultery and concubinage had recently been challenged before the Court of Constitutionality on the grounds that they violated provisions of the Convention on the Elimination of All Forms of Discrimination against Women, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, and the American Convention on Human Rights, to all of which Guatemala was a party. The Court, upholding the constitutional pre-eminence of international treaties, had in fact ruled those articles unconstitutional.
3. Mr. MAZARIEGOS (Guatemala), referring to questions on gender equality and the participation of women in public life, said that women were still stereotypically regarded as a secondary, cheaper labour force, a fact which held back their advancement. According to the National Women's Office of the Ministry of Labour and Social Security, Guatemalan women had entered the various formal and informal sectors of the economy in greater numbers, although they were still expected to be exclusively responsible for child care and were most commonly employed, on an irregular and lower-paid basis than men, in domestic work.
4. In the public sector, very few women held decision-making administrative posts: yet according to official figures, currently about 14 per cent of the Congressional deputies were women, their numbers having risen from 1 deputy in the 1950s to 25 in the 1990s. In the 1994 Congressional elections, about 12.5 per cent of candidates and 7.5 per cent of the successful candidates had been women. One cabinet minister, two Supreme Court judges and the current president of the Court of Constitutionality were also women, and women constituted almost 10 per cent of all judges in the country. Four ambassadors were women, and women active in the field of human rights, like the Nobel Peace Prize winner Rigoberta Menchú, had gained international recognition. Indigenous women, it should be noted, traditionally had a privileged status in Mayan culture, whose ancient social structures were still preserved in the indigenous communities, and they often held leadership positions in the struggle for equal rights.

5. In the private sector, more women held managerial posts, especially in the service sector; they were prominent in fields like teaching or accounting, and often active in human rights and peasants' rights groups and religious organizations. With women representing 40 per cent of university students, their numbers in responsible positions would only increase.

6. Mrs. BONOAN-DANDAN observed that, while the delegation had clearly gathered an impressive amount of statistics at very short notice, what interested the Committee was the quality of life of the ordinary woman in Guatemala. The Committee's concern was broader, with the basic equality of men and women, not merely with the participation of women in public life. What legal protection did women have, for instance, under the Civil Code, rather than the Penal Code, that would redress discrimination in the areas identified by the delegation in its replies?

7. Mr. MAZARIEGOS (Guatemala), recalling in that connection the amendments to the Labour Code outlined at an earlier meeting, said that the Presidential Commission for Coordinating Executive Policy in the field of Human Rights (COPREDEH), in conjunction with a former Human Rights Procurator, was preparing a new legal challenge to the constitutionality of articles 78-114 of the Civil Code, which contained provisions discriminating against women, a 1995 challenge having been dismissed for procedural reasons.

8. He also pointed out that 43 per cent of heads of household - traditionally a man's role - were women; they earned 40 per cent of household income.

9. Mr. ABRANE SANZ (Guatemala) said that the inequality of women in Guatemala was not the result of his Government's policies but rather of cultural attitudes that discriminated against women. Through education, the Government was trying to transform such a way of thinking, prevalent among women as well, and to break down the idea of gender roles. There was no denying, however, that discrimination against women was still a contemporary problem. Family violence was also quite widespread, and the attitude of the police was a factor in the failure to combat it. Guatemala had a deeply Catholic culture, exalting the role of women as mothers and discouraging women from entering public life. That outlook was changing, but very slowly.

10. Mr. MAZARIEGOS (Guatemala), reviewing the legal framework for the measures the Government was taking to guarantee the equal rights of indigenous people, said that the Constitution prohibited discrimination on grounds of race, colour or ethnic origin, as did the International Convention on the Elimination of All Forms Racial Discrimination, to which Guatemala was a party. All citizens had equal rights under the law, and the law made no distinctions among citizens in any respect. Indigenous people were encouraged to participate in public administration, and a number of them, in fact, held high governmental, congressional and municipal posts.

11. Mr. GRISSA, observing that there was no country that did not now have good laws or constitutions, said that all countries nevertheless had a privileged and an underprivileged class. The question was where the abuses lay and what was being done to redress them. The Committee was interested not

in the good fortune of the privileged few who had risen to the top, but in the lot of the oppressed and underprivileged - the street children, displaced persons, those without education, the failures in society.

12. Mr. MAZARIEGOS (Guatemala) said that no specific statistics were available on the indigenous 50 per cent of the population, many of them underprivileged, because there was never any breakdown by race in official data. The Government was planning to review its policy on indigenous peoples in order to reduce their de facto inequalities in relation to the rest of the population and to remedy the undeniable racial discrimination that did exist. The aim was to encourage their participation in all aspects of national life. In 1995, a bill had been introduced in Congress to revise the Penal Code by making ethnic or racial discrimination on ethnic grounds a criminal offence.

13. The cultural and linguistic pluralism of indigenous Guatemalans unquestionably restricted their access to education. The Ministry of Education was trying to remove such obstacles and make preschool and primary school education more widely available to marginalize urban and rural children by offering bilingual and intercultural courses, and had succeeded in the past two years in enrolling 337,000 new pupils in the education system. At the same time, it was trying to combat prejudice and foster inter-ethnic tolerance by publicizing the principles of the Charter of the United Nations and the various other relevant international instruments.

14. The human rights courses for government officials run by the Education Department of COPREDEH included the subject of racial discrimination. The Ministry of Education, for its part, had a regular programme for the teaching of solidarity and cultural understanding among indigenous boys and girls.

15. Mr. ADEKUOYE considered that the Government should begin to collect statistics that included a racial breakdown. The constant references to indigenous people surely meant that they had somehow been classified as such. It was clear from the information being provided that their status needed improvement.

16. In relation to violence against women, he wondered whether the discriminatory cultural attitudes made distinctions on the basis of class or of ethnicity.

17. Mr. ARRANZ SANZ (Guatemala) said his delegation had made it clear that de facto discrimination existed and that indigenous people had suffered from its consequences. There were various elements that defined those people: direct Mayan linguistic descent, a particular outlook on life, and self-identification. Indigenous people could also be identified by the physical characteristic of a dark brown mark on the skin at the base of the spinal column, which was typical of the purest Mayan descendants. Censuses took account of all such factors. The population of Guatemala was approximately 10.5 million, 48 per cent being indigenous and 52 per cent being of Spanish descent. The figures did not really tally with the rural/urban division - 40 per cent of the population lived in cities and 60 per cent in rural areas - but given the statistical margin of error, it was possible to speak of an approximate 50-50 split between indigenous people and people of Spanish descent.

18. Mr. MAZARIEGOS (Guatemala) provided information regarding labour rights. Article 42 of the Guatemalan Constitution guaranteed freedom to work, and recognized work both as a personal right and as a social obligation. There were also constitutionally-guaranteed minimum, irrenounceable standards regarding the right to free choice of work in satisfactory economic conditions guaranteeing the worker and his family a minimum standard of living, and recognizing the need for appropriate remuneration, limited hours of work, the right to organize and hold strikes, annual holidays and protection of women in the labour force. Although guaranteed in the Constitution, such rights had been developed and expanded in specific Congressional decrees. Employers were not allowed to make reference to race, sex or marital status when advertising jobs, and were also forbidden to dismiss women who were pregnant.

19. The minimum wage was established by means of a system of consultation with representatives of employers' and workers' organizations, and took account of the needs of workers and their families and of the economic situation of the undertakings concerned. Minimum wages were guaranteed by law, and sanctions were imposed if they were violated; cases were judged by a panel chaired by a civil servant from the Ministry of Labour and comprising two employers' representatives and two workers' representatives. The National Wages Commission was a technical and consultative body within the Ministry of Labour which defined and implemented general wages policy.

20. During the first 20 days of January the Ministry appointed workers' and employers' representatives to serve on minimum-wage committees for the rest of the year; the committees then fixed the minimum wages for the various activities within their remit. Basic wages in the public sector were established by agreement and following evaluation by joint committees of the quality, quantity and complexity of the activities concerned, with the help of a points system denoting the difficulty of the work undertaken.

21. The employment situation had been dealt with in the written reply to question 13 of the list of issues, but he wished to add that some 2.7 per cent of the economically-active population of Guatemala was unemployed, i.e. 80,000 people who were either out of work or seeking work for the first time. That figure had fallen from 4.6 per cent in 1980. The main problem of the Guatemalan labour market was the high level of underemployment. At present some 64 per cent of the economically-active population was underemployed; in 1980 that figure had been 55 per cent. There was no unemployment benefit, and a worker had to find a way of supporting himself and his family; that usually took the form of entry into the informal sector.

22. Control functions within the Ministry of Labour were performed by the General Labour Inspectorate, whose inspectors visited places of work and carried out on-the-spot investigations. They were required to establish whether there had been a violation of the Labour Code; if they found a problem in the employer-worker relationship, they brought the two sides together to ascertain what had gone wrong, usually in the presence of a labour judge. Inspectorates were being set up in all departments of the country.

23. Mr. AHMED complained that the Guatemalan delegation was merely giving a rehash of the country's Constitution and law. What happened in practice was another matter, and the subject of most of the criticism from members of the Committee.

24. The CHAIRPERSON said that the delegation was probably providing too much information of a purely formal nature. When the Committee had expressed concerns, it was for the delegation to address them - denying them, accepting them, and wherever possible explaining what the Government planned to do to deal with them. If it ignored the specific concerns of members, the Committee would be left with the assumption that they were justified.

25. Mr. TEXIER said his question had related to the very low rate of unemployment and how the figures were calculated when so many people worked in the informal sector. He had also asked what the statutory minimum wage enabled the worker to do. Was it sufficient to meet basic family requirements?

26. Mr. TEASSEN said it would also be legitimate for a delegation to state that no figures were available to answer specific concerns or that it was not in a position to check whether an allegation was true or not, but it would convey the Committee's concerns to the authorities in the country concerned and report back at a later stage. A delegation could not be expected to have all facts and figures at its fingertips.

27. Mr. ARRANZ SANZ (Guatemala) said the Committee should understand that when his delegation did not contradict what members had said, it meant that they had been correct. There was no denying that what often happened fell short of what was laid down in the country's Constitution and laws. Whenever the delegation did not have the information to provide an answer, it undertook to do so at a later stage.

28. The minimum wage was very much lower than the cost of a decent living standard and was not index-linked to inflation. The Guatemalan Human Rights Procurator had been correct when he had stated in his report of 1995, quoted by Mr. Ahmed, that cases existed of workers being paid less than the minimum wage.

29. Mr. MAZARIEGOS (Guatemala) said that under the Labour Code it was possible for children aged 14 or under to work, but a judge must be convinced that there was a need for the child to work, that the work was sufficiently light and suitable for a young person, and that the child's education was not being jeopardized as a result. Children usually worked in the countryside and at harvest time, when they accompanied their parents; the Ministry of Education was promoting a "mobile school" programme to ensure continuity of studies. The Ministry of Labour organized seminars to advise minors of their labour rights.

30. One question had referred to large-scale dismissals in the Guatemalan Ministry of Agriculture. There had indeed been a number of contract terminations in the Ministry earlier in the year, but his delegation had been told that they had been prompted by budgetary considerations. It was not a case of reprisals against workers because they had been exercising their

labour rights. The Labour Code established procedures for the settlement of disputes when the dispute was of an economic or social nature; when such a procedure was under way the employer was advised that he could not terminate a contract without the prior consent of the judge involved.

11. There was no obligation in Guatemalan legislation to establish specific standards of occupational safety and health; the law merely stated that there must be a safe and healthy working environment. It was subject to supervision by official inspectors.

12. The right to strike was fully enjoyed in Guatemala, both *de jure* and *de facto*. There were many strikes and frequent arbitration and conciliation procedures in both the public and the private sectors. There was a special law governing union membership of civil servants; the Constitution guaranteed them the right to strike, but their strike action was not allowed to affect the provision of essential public services. They were also forbidden to take part in party politics. A bill relating to civil servants' right to strike was currently being examined by Congress, and the Committee would be given a copy of it. The Guatemalan national police force had no trade union at present, but under the Labour Code it did have an *ad hoc* committee which had negotiated an agreement with the police authorities.

13. Mr. SATIBAY asked whether it was a fact that there could be no strike by agricultural workers at harvest time.

14. Mr. MARRASIEWICZ (Guatemala) said it was true that, in accordance with the principle that the interest of society prevailed over the interest of the individual, the Labour Code prohibited strikes at harvest time, unless the crop was one year would not be affected by delay.

15. In response to the further questions about pensions, he said that as explained in the replies to the list of issues, Guatemala had three main pension schemes: the scheme for State workers, the scheme of the Guatemalan Social Security Institute (IGSS), and the schemes operated by a number of public and private institutions. In the State system, employees paid pension contributions on a graduated scale, ranging from 3 per cent of the base salary to 15 per cent of salaries of 15,000 quetzales and above; the Government contributed the same amount. In the case of the IGSS scheme, there were two types of contribution: one restricted to sickness and maternity benefit, which was 3 per cent of base pay, and another, which covered disability, old age and survivors' benefits, which was 4.5 per cent of base pay. It must be admitted that the total amount of the pension was very small. Since the base salary was already not enough to provide for a family, pensions were clearly inadequate.

16. Mrs. JIMENEZ BUTRAGUEÑO asked whether the pensions paid by the IGSS and by the State pension scheme were tied in any way to the minimum wage and whether an old-age pension was enough for a pensioner to live on. She also asked whether there was any relationship between the State system and the IGSS social security scheme. Which paid the better pension? Was a widow who went on working entitled to receive a survivor's benefit and could a widower receive a pension earned by his wife?

37. Mr. MAZABIEGOS (Guatemala) said that the amounts paid by the IGSS for disability, old age and survivors' pensions were calculated on the basis of tables established by the Institute, and could work out at less than the minimum wage. Since 1994, the minimum payable in the State scheme had been 300 quetzales. The IGSS and State schemes were completely independent of each other and the minimum and maximum contributions were different. Under the IGSS scheme, a worker contributed 4.5 per cent of his base pay, from a minimum of 50 quetzales to a maximum of about 100 quetzales. In the State scheme, workers' contributions ranged from 9 to 15 per cent of earnings, leading to a minimum pension of 300 quetzales and a maximum of 2,000 quetzales. Under that scheme, the widow of a retiree received 100 per cent of the amount due to him, unless there were dependent children, in which case she received 50 per cent and the children 50 per cent. Under the IGSS scheme, the widow received as a survivors' benefit 50 per cent of the retirement pension that would have gone to her husband. In both schemes, a widow who continued to work could not collect a pension. A woman who continued to work for the State could not collect a pension for herself but she could receive an allowance for the children. When she did retire, she could choose between her own pension and that of her husband. Regulations governing widowers' pensions had been adopted in 1988.

38. Concern had been expressed that there were no social security arrangements for domestic workers, who did not contribute to any scheme. For the purpose of calculating any sick or severance pay due to a domestic worker, it was assumed that 30 per cent of wages was in the form of food and housing. In response to the questions asked about "de facto" marriages, he said that such common-law marriages could be declared by either party or by both, for purposes of registration, and that the legal effects of a registered common-law marriage were exactly the same as those of a civil marriage, including pension entitlements.

39. Mr. ARRANZ SANZ (Guatemala) said that in the questions asked in connection with article 12 (right to health), specific reference had been made to cholera and dengue. He was glad to report that there had been a steep decline in the incidence of cholera since 1993, with the earlier epidemic giving way to sporadic outbreaks. Major educational campaigns had been carried out in the capital and the provinces to promote food safety and general hygiene, and it was the Government's intention to maintain progress towards the eradication of cholera and diarrhoeal diseases. One important advance of 1995 had been the establishment of laboratories to produce oral rehydration salts, in preparation for any major outbreak of diarrhoea, a project which had received technical and financial support from USAID.

40. In the case of dengue, priority attention was being given to those departments in which it was most widespread. Treatment was focused on the disease itself and on the carrier. A new insect vector of the disease had been discovered in one department and measures had already been taken to eradicate it. In order to protect the environment, the Ministry of Health had decided not to engage in mass spraying of insecticides. While classical dengue fever continued to exist, the measures taken had reduced cases of haemorrhagic dengue to only three or four in the past year.

41. With regard to general health policy, he emphasized that, under the new agreement between the Government and the Unidad Revolucionaria Nacional Guatemalteca (URNG), the programmes of the Ministry of Health would henceforth concentrate on prevention. Under the agreement, the Government undertook to maintain the eradication of poliomyelitis and to achieve the eradication of measles by the year 2000. The other childhood diseases would be strictly controlled through an intensive campaign of immunization.

42. Attention had been drawn to the sharp differences in health services between the capital and the provinces. Under the new agreement, the Government undertook to extend access to health services to the whole of the Guatemalan population. Referring to health infrastructure, he said that, at the beginning of 1995, there had been 37 public hospitals in the whole of Guatemala, 33 health centres, and a further 1,200 or so less well-equipped centres. He agreed that facilities were very limited in the light of the population's needs. The relative concentration of hospital beds, both public and private, in the capital was a matter of particular concern.

43. Mr. EXQUIE said that he had been very struck by the absence of a national health policy and the decline in health expenditure in relation to GNP (recorded in paras. 85 and 87 of the report). He was therefore particularly glad to hear of the new agreement, which recognized the need to reform the health sector and gave the Ministry of Health the task of formulating policies that would provide comprehensive health services for all. He looked forward to receiving Guatemala's next report, in a few years' time, outlining the results achieved by that new departure.

44. Mrs. JIMENEZ BUTRAGUENO asked whether there were any health services for the elderly.

45. Mr. AHMED said that the new agreement also contained provisions recognizing the need for a housing policy and an undertaking by the Government to promote access to housing by the poor. Much needed to be done in that sector and he hoped that the Government's next report would also contain good news about housing.

46. Mr. ARRANZ SANT (Guatemala) said that the Government's pledges were serious with regard to both health and housing. In the case of the latter, the Government had undertaken to spend 1.7 per cent of tax revenue on the provision of housing as from 1997. There were no special services for the elderly but they had the same access to the regular services as the rest of the population. Children and the elderly were of course the most vulnerable to the current deficiencies in the system, but persons over the age of 60 constituted only 5 per cent of the population, 60 per cent of whom were under the age of 18.

47. Mr. MAZABIEGOS (Guatemala) said in reply to the question about assistance to widows and orphans who were victims of the internal conflict that a special programme of government assistance existed, administered by the Office of the President in association with the First Lady's special Secretariat for Social Work. Most of the widows concerned were indigenous women living in extreme poverty. Within the country, nine departments had been identified as having priority for assistance, which took the form of support in the areas of health

and education and help in setting up small businesses. The aim was to promote overall development by enhancing the participation of women in the economic and social life of their communities. In 1995, technical and financial assistance had been provided to 150 groups, comprising 5,245 widows and 9,970 orphans, in the various departments. More than 3.5 million quetzales had been invested by the programme, which had its own Executive Secretary and a permanent staff stationed in the provinces and the capital.

48. Under the earlier agreement on human rights, the Government had undertaken to rehabilitate and assist victims of human rights violations through the various social funds already identified in the report. Congress was currently studying a bill put forward by a member who was a well-known human rights activist, seeking to create a special government body to rehabilitate and assist persons whose human rights had been violated, and in particular victims of the internal armed conflict.

49. Mr. ARRANZ SANZ (Guatemala) said in reply to Mr. Grissa on article 11 that "illegal settlements" were houses or shacks built by persons trespassing on private property.

50. Mrs. BONOAN-DANDAN repeated her earlier question. What new measures would ensure that the proposed bill on domestic violence would be implemented more effectively than past legislation? She had not yet received a satisfactory answer from the delegation.

51. Mr. ARRANZ SANZ (Guatemala) said he could not recall the details of that particular bill, but a distinguished group of female lawyers was currently studying means of redrafting present legislation and incorporating within the Constitution the criteria set out in the various international conventions ratified by Guatemala. Well aware of the gravity of the problem, his Government had presented a plan to the Human Rights Commission for achieving change through public information campaigns. Research would be conducted into the cultural and other causes of the problem, with a view to increasing awareness of the issue of domestic violence and respect for human rights among the various social groups and public, administrative and legal bodies. Unfortunately, no attention was currently being devoted in law faculties to the International Covenants on Human Rights. Special services were, however, being created to provide appropriate medical, legal and psychological assistance to the victims of aggression, as were refuges for young people, homes for battered women and a Commission for Women. Over the past two years, throughout the Republic, pilot units offering legal and other advice had been established to encourage women to denounce the perpetrators of violence against them. Traditional values were often to blame. They must be changed for a culture of equality and mutual respect to reign in Guatemala.

52. In reply to Mr. Adekunle's query, he explained that CONALFA was the National Committee for Literacy Training set up by the Ministry of Education; it was working on a broad, informal literacy training programme for adults and children not attending school. More information could be provided if required.

53. Religious education was not compulsory in State schools, although it could be requested by a group of parents or students. Certain days of the

year were devoted to religious festivities (mostly masses or evangelical services), but nobody was obliged to participate. The small number of Jehovah's Witnesses were excused from attending school on certain religious holidays. The Government attempted to cater for the sensitivities of all sects.

54. Teachers earned a monthly salary of approximately 1,200 quetzales, admittedly less than civil servants. They were, however, awarded a 20 per cent rise every five years. Teachers had refused to be governed by the civil servant wage law, which ensured a minimum wage of 2,500 quetzales. They felt their own Decree (No. 1485) conferred better rights for it presupposed tenure for life, a guarantee which they valued highly. Supply teachers (or "taxi" teachers as they were known in Guatemala) were not treated as well. Teachers did, however, receive excellent pensions after 30 years in the profession, amounting to 100 per cent of their last salary. That served as an incentive to enter the profession.

55. A bilingual school system was now in place. In regions where the majority spoke an indigenous language, schooling was provided in that language. Spanish was introduced at a later stage in the pupil's education in order to facilitate social mobility and promotion. Guatemala had 11 different linguistic groups and had recently been awarded a prize by UNESCO for its language training methodology.

56. In 1995, 37 per cent of the population had been found to be illiterate. Some estimates put the figure at 48 per cent. Illiteracy was, however, declining at an annual rate of 12.5 per cent. If the current rate was maintained, only 22 per cent of the population would be illiterate by the year 2000. One per cent of the national budget was devoted to CONALFA, a very significant level of funding, although the project had never actually received that amount. CONALFA contracted work to NGOs in the various departments and regions. In 1994, 15,000 men and 10,000 women had attended weekend and night classes for adults at "accelerated primary" level over a three-year period. There were fewer such opportunities in the more remote areas.

57. In 1994, the schooling system had covered 68.2 per cent of 7 to 12-year-olds ("primary" level), with a coverage of 85 per cent in the metropolitan area and 77 per cent in adjacent regions. "Basic" level education for 13 to 15-year-olds only covered 20 per cent of that age group, while "diversified" education for the final two or three years of schooling only reached 10.9 per cent. There was thus a deficit in coverage at secondary level ("basic" and "diversified"). Guatemala had 2,400 primary-level establishments and 1,600 establishments providing "general cultural education". Few establishments catered for "diversified" education.

58. A special programme for promoting the education of girls had been initiated, with the slogan "An educated girl grows up to be a woman able to assist in development". Women had many burdens to shoulder. If a mother had been well educated as a girl, she would be better able to care for her family's health, provide the correct diet and encourage school attendance by her children.

59. The Government recognized the need to harmonize the various levels of schooling and was following the Colombian model, among others. In January 1996, a new Government had come to power and one of its aims was to increase educational coverage of the population and encourage decentralization of the education system. Pre-primary coverage for 5 to 6-year-olds was to be increased from 60 per cent to 80 per cent, and primary education for 7 to 14-year-olds from 60 per cent to 95 per cent. The Government also aimed to reduce the high numbers of pupils repeating a year to just 10 per cent. The present high level was mainly due to social and family problems. Pupils were often forced to travel great distances to get to school. If a family had two or three children, the father would often promise the teacher he would send one child to school provided he could keep the others at home to help the family. The Government's target was a school attendance and literacy rate of 80 per cent. Extracurricular distance-learning projects were being organized with the help of Spain and Mexico, which had been making televised educational programmes available at the "basic" level. The Ministry of Education was currently implementing a school refurbishment programme and providing all schools at primary and pre-primary levels with biscuits and milk, so that school would be perceived as a place where additional food could be obtained in return for attendance.

60. The Government's target was 100 per cent bilingual training for teachers at all levels, since teachers could not be expected to provide the required language teaching unless they were bilingual themselves. Language training and multicultural programmes would be expanded to include all linguistic groups. In future, 60 per cent of all schools would be taught Mayan language and culture, and all children, irrespective of ethnic origin, would learn about shared values between the various cultures with a view to promoting cultural understanding among adolescents. The education system, which was at present overly academic, was to be attuned more closely to the job market.

61. On Mr. Rattray's question concerning paragraph 125 of the report (E/1990/5/Add.24), his delegation stressed that the Government did not endeavour to impose European culture upon indigenous groups. Guatemala sought a greater degree of idiosyncrasy with a view to promoting mutual understanding and the coexistence of diverse cultures. The fruits of such policies would be seen in the future.

62. Mr. TEXIER recalled that the Government had earlier admitted that its obligations under the Covenant with regard to free or compulsory primary education for all had not been respected. However, the requirements under article 14 had now been met by the agreement signed two days previously between the Government and the URNG. He was pleased to note that the planned target date for incorporating all school-age children in at least three years of primary education was the year 2000 and that the Government had pledged to increase the literacy rate of the population to 70 per cent. The implementation of such a laudable plan would require both political will and funding. He looked forward to receiving a progress report in a few years' time, and remarked that the targets mentioned by the delegation had been even more ambitious than those pledged in the agreement.

63. Mr. ARRANZ SANZ (Guatemala) agreed that the Government's commitment represented a colossal undertaking, but it was important to aim high.

64. With regard to drugs, he wished to point out that Guatemala's problem was not one of drug consumption, but of drug trafficking to the United States and other countries. It was true that some street children did consume drugs, but that basically only amounted to glue-sniffing. They were not addicted to it; they merely sniffed glue in order to forget their hunger.

65. In thanking the Committee, he assured it that the Government had been both honest and sincere and that it was well aware of the enormity of the challenge which lay ahead. He stressed Guatemala's willingness to monitor compliance with the Covenant and understood that it would need to produce rapid results; otherwise international help would not be forthcoming. Without assistance, however, Guatemala would not be able to achieve the necessary results. That was a vicious circle which the new Government hoped to break.

66. Mr. DIAZ-DUQUE (Guatemala) also expressed thanks for the Committee's interest and constructive criticism and recalled the recently-ended fifty-second session of the Commission on Human Rights, which had been characterized by a new optimism. Although much remained to be done, even speakers not connected with the Government had agreed that change was in the air and that some improvements had already been made. He had urged national NGOs to do their utmost to ensure that human rights were respected. Guatemala hoped one day to become an example for other democracies.

67. The CHAIRPERSON agreed that the situation in Guatemala was unique for a number of reasons and thanked the delegation for its willingness to engage in dialogue.

The meeting rose at 6.05 p.m.